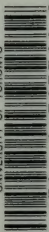



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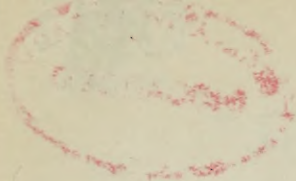
History of Detroit

by  
C. M. Burton.



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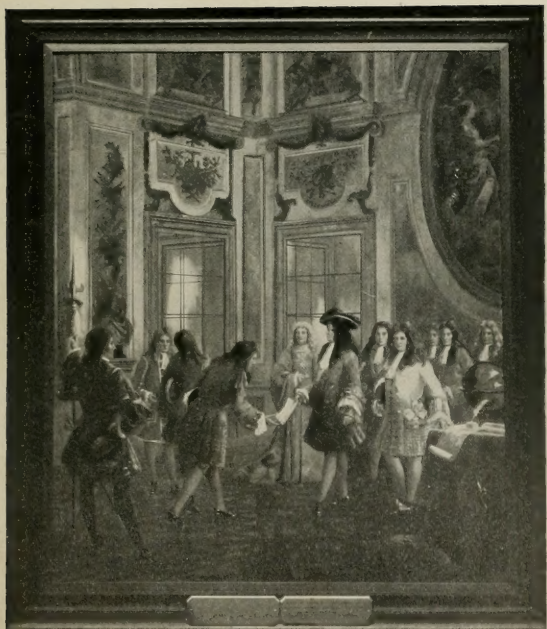




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LOUIS XIV DELIVERING TO CHEVALIER DE CADILLAC,  
THE ORDINANCE AND GRANT FOR THE FOUNDATION OF THE CITY OF DETROIT.

PAINTING PRESENTED IN THE NAME OF THE FRENCH REPUBLIC BY HIS  
EXCELLENCY M. JULES CAMBON, AMBASSADOR OF FRANCE  
TO THE UNITED STATES.

NOVEMBER 1902.

# THE GATEWAY

A Magazine of the Times devoted to  
Literature, Economics and Social Service.

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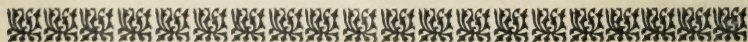
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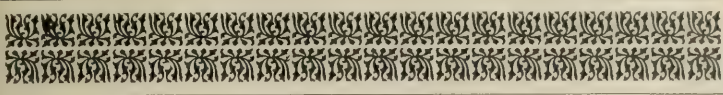
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# A History of Detroit.

by CLARENCE M. BURTON.

**Law and Order in Early Detroit, with Incidents  
Exemplifying Cadillac's Sturdy Characteristics.**

## PREFACE.

The following pages contain matters pertaining to one portion of the history of Detroit. The work has been in preparation for some years, but has been added to, rewritten and extended as new materials have from time to time been brought to light.

It is not intended as a history of the place, but as one chapter in such a work. We live in a city whose history is a romance. There is no year, no month, hardly even a day, since the first stake was driven and the first log cut on the twenty-fourth day of June, 1701, when Detroit was founded, that has not furnished a romantic event to be woven into that complete history which we will hope will be sometime written. The events narrated here are from the records and documents that show the legal history only.

A much greater volume remains to be compiled on the daily life of the people, and then we must give additional thought and study, and many pages to their civil affairs, their amusements, the lives and actions of the commandants, their Indian troubles and wars with the savages and those between France and England and the United States.

Then we have said little about their religion. Even in this department there were serious troubles. Cadillac was at heart a Protestant, though he did not know it. He was always quarreling with the Jesuits—that "Great Machine," as he described it, which crushed every-

one and everything beneath its ever-turning wheels. His successors were more pliable than he was, and there was little trouble in this line until the coming of the English in 1760.

The religious questions growing out of the articles of capitulation of Montreal and the treaty of 1763 are as interesting and as serious as any other feature of the history of this part of the country. The earliest discussions on the subject of self-government of the province of Quebec, the establishment of a representative government, the formation of an assembly, and the other matters connected with these early times, largely devolved upon the religious question.

In "A plan of a general assembly of the Freeholders of the province of Quebec," the writer starts out with the statement that there would be no difficulty in forming such a plan if all the Canadians were protestants.\*

Quebec, Montreal and Three Rivers were the most important places in the New possession. All three were in the new province of Quebec. Detroit was the most important place outside of that province, but there were several other quite important settlements that were subsequently taken into the province by the Quebec Act of 1774. In all of these settlements the Catholics largely predominated, and it became necessary that some laws should be enacted to protect them in their religion. The great effort

was to do for them, in the matter of religion, as little as possible, and to encourage the propagation of protestantism.

In "A draught of an Act of Parliament for tolerating the Roman Catholic Religion in the province of Quebec, and for encouraging and introducing the Protestant Religion in the said province, and for vesting the lands belonging to certain religious houses in the said province in the Crown of this Kingdom, for the support of the civil government of the said province," which was proposed to operate in conjunction with the Quebec Act, is displayed the effort to discourage Catholicism, and to encourage Protestantism.

This effort was wholly ineffectual in Detroit, and probably in all the settlement.\* The only method by which the supremacy of the Catholic religion was overcome in the west was by the suppression of French immigration, a natural result of the war, and the constantly increasing immigration of British born and American citizens.

Just at the close of the revolutionary war another class of immigrants, the loyalists, began to make their wants known, and they not only had to be listened to, but the efforts of Great Britain were to encourage them. They were all protestants, and their work along religious lines was powerful in their own direction.

Detroit was peculiarly situated. It was known to be a possession of the United States, but in the hands of Great Britain temporarily. The latter country desired to retain it, but knowing that they could never own it, without at least another war, the English did not care to improve it by establishing churches or other permanent buildings. No protestant church, or church society, was ever permanently established there prior to 1796, the date of the Exodus.

At the time of the exodus of those who preferred the laws of Great Britain to those of Congress, there was a greater incoming of new citizens from the east and south. They came to make homes, to build up and not to destroy, as the English had in the years preceding 1796.

Of these newcomers we say but little, for they are not fairly started in their career of state building before we leave them.

Only one century is covered by this work, but now another and a greater century has been completed, and a third one begun, each greater and more important than its predecessor. The little post that was founded in 1701 with one hundred Europeans, has become a cosmopolitan city of over four thousand people. We take pride in its wonderful growth, but let us not forget that for many years it scarcely increased at all, and that there were more people in the settlement in 1782 than were shown by the census report to be in the city in 1830.

The documents recited, referred to, and copied, are many of them entirely new in type. Many of them are from the public records of Detroit, the Haldimand collection in Ottawa, the British Museum, the Public Record Office in London, the Library of Congress, the various historical societies of the United States and Canada, and many more from my own collection. The most complete collection of printed documents is that contained in the report of the Canadian Archivist of 1906. The work here presented is authentic, and I hope and expect that it will be made use of as an authority for others who may seek its pages to find how we lived, and what we did in this beautiful city of ours between the years 1701 and 1805.

#### LAW AND ORDER IN EARLY DETROIT.

No one has ever undertaken to write that part of the early history of Detroit that pertains to its public records, its judges, lawyers and lawsuits. Such a history could not well be denominated the bench and bar of Detroit, for its commencement antedates the idea of judges and lawyers, and begins when the legal history of the place was in that chaotic state that only finds a parallel in those modern localities of the west where the might of a majority is the law of the land.

There is probably not an instance in the history of Detroit, in those early days, where the people took affairs into

\*Tracts on Canada.



jury or before a judge, of such a nature as we find at the present day; or indeed of anything approaching it in character.

Cadillac was the founder and first commandant of Detroit. It is possible that he exercised greater authority than any of his successors. He was empowered by Louis XIV—Louis the Great, the man of all monarchs who attempted to centralize government in himself, to plant a colony on the Detroit. It was the effort of Louis and his adherents to confine all authority in the crown, and yet he permitted Cadillac to found this colony in a remote country, where nearly absolute authority was required to be vested in the one in control. The rights of higher, lower and intermediate justice only, such as pertained to the seignories in Lower Canada, would not have permitted the commandant to control affairs with safety himself and the civilians in his party. He was the military as well as the civil head of the community. The courts of Quebec were a long distance away, and there was no nearer civil tribunal. The troubles he had experienced with the Jesuit Vaillant and the soldiers influenced by him was a warning that a steady and powerful hand might become necessary. This power he possessed, and he proposed to execute it.

Corruption in public affairs, from the highest official to the lowest, was the order of the day throughout France and Canada. Nepotism in public office was the rule, and the subordinates were given employment because of relationship, and not because of proficiency. The company of the Colony of Canada had control of the trade of Canada, and presumed to assert that control in Detroit. The rights of this company in Detroit were disputed by the commandant. Some of the subordinate clerks, relatives of those higher in authority, were at the post in 1704, spying on Cadillac, and interfering with his government. Some of these clerks began a system of pilfering from the storehouse—stealing furs and skins that were being collected for exportation. This was discovered by Cadillac, and he at once put a stop to it, much to the chagrin of the clerks. They resolved to ruin Cadillac, even if by so doing they destroyed the settlement. Some of these

men concluded that as they represented the Company, they had greater rights than Cadillac himself, and they proceeded to show the colonists of how little importance the commandant was, compared with their own authority.

Affairs came to such a pass that the clerks complained to their relatives, the officials at Quebec, and Cadillac was summoned there. Just before his departure, he ordered one of these clerks, named Denoyer, placed in confinement for some offense, and it was on account of this act that the principal charge was made. Cadillac did not stop with appealing to the officials at Quebec, whom he knew to be corrupt, but appealed at once to his patron, Count Pontchartrain, the Minister of Foreign Affairs at Paris.

His case is presented in the form of a dialogue, carried on between himself and the Count, and every detail of his Detroit troubles is set forth in full. One portion only, that relating to his powers as commandant, will be examined here.

He writes "that\* (the imprisonment of Denoyer) is my great crime, and they declare that they will be even with me for having, as they call it, the audacity to imprison one of their servants whom they appointed as their principal clerk, a waif and a poor wretch who came here not knowing which way to turn on his arrival in this country. As to my powers, they are very ample, being to punish, according to the circumstances, by censures, reprimands, by arrests, by imprisonment, or by deprivation of civil rights, and, in case of distinct disobedience, to run my sword through any one who has so offended against me. It is by reason of the remoteness (from Quebec) that these orders have always been given to me, and on account of the seditious and intrigues which have been attempted to be formed here, which I have known quite well how to repress. A soldier of the garrison having been killed by the enemy, the savages reported that they had found the stake to which he had been bound. On this report, a party of about one hundred savages of different tribes was instantly formed to pursue and try to avenge the soldier's death. They asked me for seven or eight

\*Sketch of the Life of Antoine de La Mothe Cadillac, page 18.

Frenchmen to go with them, and having granted them this, I ordered M. de Tonty to command eight good men of the employes of the company, to take those who voluntarily offered themselves, and to have provisions and ammunition given them out of the company's warehouse, according to custom.

"Denoyer, the principal clerk, maintained that I could not form any detachment for the king's service out of the employes of the company without his permission, and that they could not go outside the fort without telling him of it; that the matter should be so arranged, or he would take strong measures. The Canadians engaged for the company's service having complained to Mr. de Tonty, who had commanded them, he came and made his complaints to me. Having heard him, I sent for them, and after I had questioned them and they had deposed to what is above stated, in the presence of witnesses, I sent for Mr. Denoyer. Having asked whether it was true that he maintained that I had no power to detach the company's employes for the king's service without telling him of it and without his leave, he had the impertinence to maintain to my face, Mr. de Tonty being present, that he did not deny it, but that he did not believe I had this power. This reply, made with all possible arrogance, compelled me to send him to prison with these words, 'I will teach you, you little clerk, to swerve from your duty and to raise sedition by estranging minds from obedience.'"

The prison was the sergeants quarters, and the clerk, Denoyer, remained in it about three hours. Denoyer related the affair to his uncle Lotbiniere and, as a result, a suit was commenced against Cadillac as soon as he arrived at Quebec in answer to the summons of the company, and he was arrested or detained by Ramezay, commandant of the city, until he should answer this charge and three other counts which composed the petition of the company. The appeal to Count Pontchartrain was satisfactory to Cadillac. The affair was long drawn out and it was two years before a final decision was had, but when it did come, the commandant was sustained in every point. The court determined—and how could it determine otherwise—that in

this remote country, separated so far from the sustaining arm of government and legal authority, the commandant must be a monarch. He must have authority to instantly decide cases and to enforce his decisions.

The French commandant was attend-



ANTOINE DE LA MOTHE CADILLAC.

ed by his soldiers who, on all occasions, carried out his orders and directions. If at any time he exceeded what the citizens considered his proper prerogatives, they could complain to the Governor General, but the complaints were generally unheeded, as the Governor General must have considered that almost absolute authority was necessary to be vested in the local commandant in order to keep in proper subjection the rough and unruly element he was compelled to dwell among and contend with.



At the very beginning the village priest<sup>2</sup> was the arbitrator, but it soon came to be noticed that he allied himself with a certain clique, and thereafter his influence was greatly lessened or entirely spent, for he held no official position as arbitrator, and those who did not belong to the same party as himself lacked confidence in his opinion, and did not accept his decision.

During Cadillac's absence in Quebec his little village came near being sacked and destroyed by turbulent Indians, and it was partly on this account that the home government looked with favor upon his attempt at arbitrary rule.

There were some controversies, however that appeared to be beyond the authority of the commandant to try. He could not try any cases in which he was personally interested. He could not try any capital cases, or cases in which the life or liberty of the defendant was involved. We say he could not try those cases, and yet we have seen that Cadillac asserted that his authority reached to the taking of the life of any person who refused to submit to his orders.

Cadillac himself was defendant in a civil suit in 1694, which was protracted till 1703, arising from the seizure of the goods of a trader of Michillimackinac, when Cadillac was commandant there.

The goods were seized for infraction of the laws which prohibited the sale of brandy to the Indians. The suit was for recovery of the value of these goods, which were destroyed. The trial was held at Montreal, and was decided in favor of Cadillac.

In 1703, someone set fire to the buildings in the village of Detroit, and the church was burned, as well as a large warehouse filled with furs, and several other buildings. Cadillac himself was severely burned in attempting to stem the conflagration. There was much speculation as to who set the fire. Cadil-

lac accused the Jesuits of instigating the work. There were no Jesuits in Detroit, but he accused them of sending an Indian from Mackinac to do the work for them. There were some very bitter letters written on the subject between Cadillac and the Jesuit priests at Mackinac and Montreal, but the matter with them ended with the letter writing. This did not disclose the incendiary, and others were suspected or accused of setting the fire. Shortly after this, in 1706, Jacques Campau accused Pierre Rouquant dit La Ville of the crime. Canadian or French justice was administered in a manner that appears strange to us at this distance. In this case, La Ville was arrested and taken to Quebec and lodged in prison. Campau also was summoned to attend the investigation as the complaining witness, and most important person. The trial or investigation was held at Quebec December 2, 1706, before le Conseil\*, and resulted in an apparently extraordinary verdict, for not only was the defendant acquitted, but the complaining witness, Campau, was compelled to pay 500 livres for the trouble and expense he had caused.

In 1705, Pierre Berget (or Boucher) dit La Tulipe, a (tambour) drummer in the company of Cadillac, committed a criminal assault upon Susanne Capelle, a little girl 12 years of age. He was convicted before the Conseil Supérieur of Quebec and was sentenced to make a public confession of his crime, and on his knees in the church he was required to ask pardon for his sins, and he was then to be executed. It was almost impossible to carry out the latter part of the sentence, for no one appeared willing to act as executioner. In the jail at Quebec was a man named Jacques Elie, who had been condemned to death for some offense committed at the siege of Port Royal in Acadia. Elie was promised a pardon for his crime if he would act as executioner upon La Tulipe, and the latter was thus duly executed on the 26th of November, 1705. These were some of the cases that the commandants were unable to deal with at home, and sent to the higher courts at Montreal

<sup>1</sup>Note. The papers of Cadillac are printed in *Vol. 5*, and all of the *Michigan Pioneer and History Society*.

<sup>2</sup>Father Francois de Guenlis Vaillant, Jesuit and Nicolas Bernache, Commandant de l'Halle came to Detroit with Cadillac in 1701. Vaillant attempted to sow dissension in Cadillac's followers and he was discovered. He did not remain in Detroit, but left immediately for Mackinac. l'Halle was killed by the Indians June 1, 1708. He was succeeded by Father Dominique de la Marche the same year.

\*Jugements et Deliberations du Conseil Supérieur de Quebec, Vol. 5, p. 457.



and Quebec for trial and disposition.

In 1711 Cadillac left Detroit for good, and his successor got into trouble with the village priest and many of the foremost citizens without unnecessary delay.

A contract of marriage entered into between the prospective husband and wife was usually executed before a notary, but in Detroit, in the early years, such a contract was necessarily made before the commandant, there being no notary before whom it could be executed.\* Such a contract, dated October 27, 1713, was made before the commandant, Francois de La Forest, by which Francois

In this case, the sponserers were Pierre Mallet, Louis Gastineau, Francois Rivard dit Montendre, Etienne Campau, Joseph Parent, Sieur Dubuisson, Perigny (this is probably Paul d'Ailleboust Perigny, lieutenant), and Jean Pachot, former citizens of the place. The agreement was not recorded in the notarial office of Montreal until May 10, 1740.

Another class of cases, those involving the military laws, disobedience to military orders, desertions, and similar matters, were attended to by the soldiers themselves, and came before the commandant in his capacity of military offi-



Cadillac and his followers landing on the present site of Detroit, July 24, 1701.

Tafard dit Delorme, widower (of the first marriage) of the deceased Marie Magdeleine Jobin, agreed to marry Barbe Loisel, widow (of the second marriage) of the deceased Francois Le Gautier, Sieur de Lavallee Ranée, lieutenant in the troops. As usual in such cases, the friends and relatives of the parties joined in the contract to evidence the good faith of the transaction.

cer, and not as a civilian. There is a record of one of these early trials by court martial. During the absence of

\*There was a man in Detroit, Etienne Veron, Sieur de Grandmont, who acted as amanuensis to Cadillac and kept the public records for him. He was not a notary, but acted in that capacity until his moral delinquencies aroused the priest and the good people of the village and he left for the East, where such little irregularities were more generously overlooked.

Cadillac from the village, in 1705, Bourgmont had change of the post for a time. He misbehaved himself in various ways to such an extent that the citizens nearly rose in rebellion, and the public indignation was so great that Bourgmont sought safety in flight. After Cadillac's return he set about investigating the matter, and in 1707 sent an officer named Derané, with 15 men, to hunt up and capture Bourgmont, Jolicoeur and Bartelémy Pichon dit La Roze, who were all deserters, and who were then leading an abandoned life on the shores of Lake Erie. They were also commanded to bring with them a woman named Tichenet, who was then living a scandalous life with Bourgmont and who was, in part, the cause of Bourgmont's desertion.

Apparently La Roze was the only deserter who was captured, and he was tried by a court consisting of Antoine de la Mothe Cadillac, François Legautier, Sieur de la Vallée Derané, Pierre D'Ar-

genteuil, Guignolet, Lafleurdor, Francoeur and Brindamour.

The defendant was found guilty and sentenced "à avoir la teste cassé jusque à si que mort sensuive," which means that he should have his head broken until he was dead, something like the method employed in slaughter houses for killing bees. The word "teste" in old French, or modern "tete," meaning the head.

The sentence was duly carried out in the garrison of the Fort Pontchartrain du Detroit, November 7, 1707. No appeal was taken, nor was it possible that any could be. This is the first capital case in Detroit, but not the last one, for there were several others in later years.

As there are no evidences of suits for small sums of money in the records of Montreal, or Quebec, we infer that such cases were attended to in Detroit, and by the commandant, or by someone deputed by him to attend to such matters.

Note.—This trial is now printed in Mich. His. Soc. 34, 236.

(To be continued.)



#### The Speeders.

Let us start the engine humming,  
Come and take a morning spin,  
For the car is fit to enter  
Any race a cup to win.  
Every part is bright and shining,  
Full of oil, and free from rust;  
Open up the throttle wider—  
Make the public eat the dust.

# A History of Detroit.

by CLARENCE M. BURTON.

**Navarre, First Civil Officer at Detroit. His Marriage. Detroit before the Conquest. The Treaty of Paris of 1763. Organization of the Government under British Rule.**

In one of his reports Cadillac says he has reserved to himself five leagues of territory on both sides of the Detroit river, with five leagues in depth, and the powers of higher, intermediate and lower jurisdiction with all the prerogatives given in Canada. This would allow him to decide all minor civil matters at his residence, the more important ones going to Quebec.

Occasionally some action of the commandant would be considered so arbitrary and unjust that a complaint would be made to the Conseil Superieur for redress, as in the case of Louis Gastineau. This man had purchased a lot within the village inclosure of Cadillac in 1707, but he did not improve it for some time. All the lots within the village were sold upon the understanding that houses would be erected upon them, and refusal or neglect to do so would work a forfeiture of the title. Cadillac notified Gastineau of the breach of contract and posted a notice to this effect upon the church door, as was customary in cases of public notices. As Gastineau paid no attention to the notice, Cadillac attempted to take possession of the land, and the former appealed to the authorities at Quebec, an investigation was made, and the council passed judgment in his favor.

In 1730, or about that time, Robert Navarre came to Detroit as sub-intendant. He was a man of good education and soon attained to great importance in the village. He was church and village treasurer, school teacher, royal notary, sub-intendant, and general scrivener. Shortly after he arrived in De-

troit he was married to Marie Lhotemane Barrois. Their marriage contract is dated May 7, 1733, and is on file in Montreal. It recites that Robert is the son of Marie Francois Navarre and Jeanne Pluyette, his wife, natives of Villeroy, diocese of Meux in France, and that Marie Lhotemane Barrois is the daughter of François Lhotemane dit Portier, May 7, 1734, there being at was appointed royal notary for Detroit,

The witnesses to the agreement are Hugert Jacques Plau, sieur de Livaudiere, commandant at Detroit; Father Bonaventure, missionary at Detroit; Jean Joseph Ferret-Duburon, second in command in Detroit, and Jean Baptiste Dagneux sieur Douville, and many others.

This agreement was executed at Detroit, and was taken by the father of the wife to Montreal, where it was entered in the office of the royal notary, C. Portier, May 7, 1734, there being at that time no notarial records kept at Detroit.

On the 22d of May, 1734, Navarre was appointed royal notary for Detroit, and before giving him his commission, the commandant, Peair Duburon, Dagneux and Father Bonaventure certified to his good character.

On the 10th of the following July Navarre took the oath of office before the commandant, and thus became the first civil officer of Detroit. One of the requirements made of Navarre was that he should obtain a certificate of good character from the village priest. The certificate which he received reads as follows: "I, the undersigned, Recolet

a stumble so great! Life so precious! Death so horrible! And death was not all. He must have a few moments to think of what might be coming after. Alexander Hilton, with the sweat gathering on his forehead and his breath coming in quick, short gasps, stood where he was.

"Coward!"

Had someone shouted in his ear? No; it was the look in the eyes of Ezra Mason as he ran past him.

Ezra was down on the rails. The train was no longer two distant lights. The form of the shrieking engine broke clear from out of the surrounding mist. The child was flung up on to the platform. And then—

Alexander Hilton put his hand over his eyes and reeled back.

The train came quickly to a standstill, and backed. The hush of suspense changed to a hubbub. Excited officials ran up and down the platform, while curious passengers leaned out of the carriage windows, and shouted questions at them as they ran. Everybody was either asking question, shouting orders, ejaculating sympathy, or offering advice. Alexander Hilton alone had no desire to communicate his emotions to his fellow-men.

The one thing he had to do was to get out of the station as quickly as possible. He did not want to be stopped and questioned and summoned as a witness before the coroner. His bag lay on the platform where Ezra

had dropped it, and he quickly picked it up and walked along the platform. In another minute he was out in the open air, hailing a cab.

At the moment when the eyes of Ezra rushing past him had glanced into his Alexander Hilton had felt as if a flashlight had been thrown over the dark recesses of his soul. For that one moment he had felt himself suddenly shrivel; almost as if he and Ezra had changed places, and he, not Ezra, were the shabby, little, half-starved member of the Unemployed. But now, whirling home in his hansom, with his fur-coat gathered comfortably round him, and a fresh cigar between his teeth, he slowly regained his normal feeling of complacency. And he moralized.

After all, how wonderful are the ways of Providence! Ezra, whose life was only a burden to both himself and others, had been taken; while he, Alexander Hilton, the really valuable member of society, was left. He hummed a little psalm of thanksgiving to his own prudence. But for that prudence, where might he not now be?

The body of Ezra Mason was borne by two policemen on a stretcher to the morgue. And the soul of Ezra Mason, making its triumphant entry into Paradise, looked down with a great pity on the soul of the man whose body was riding home in a cab.



An Optimist.

"Whatever the weather may be," says he,  
"Whatever the weather may be,  
It's the songs ye sing, and the smiles ye

That's a-makin' the sunshine everywhere;  
And the world of gloom is a world of glee,  
With the bird in the bush, and the bud on  
the tree,

"Whatever the weather may be," says he,  
"Whatever the weather may be!"

priest, filling the office of *curé* in the Church of Ste. Anne in Detroit, certify that Robert Navarre, of this parish, does not lie under any ecclesiastical censure, nor is he infected with any heresy or evil doctrine; that, on the contrary, he has a good reputation, leads an exemplary life, and faithfully observes the Catholic, apostolic and Roman religion.

"F. BONAVENTURE,

"Missionary."

"Dated at Detroit, July 10, 1734."

Father Richardie made a similar certificate, and added that the manner of Navarre's life was such as to merit the applause of all the world.

Although there were no courts under the French rule, the people never bowed abjectly to the commands of their superiors, but were always tenacious of their rights.

Judge Campbell says, in his history, "The powers of La Mothe Cadillac could not have been less than those belonging to the highest feudal lordships of France. He asserted plenary powers of justice, uncontradicted. But it was not necessary to establish tribunals of any kind as long as the settlers were confined to the fort, and necessarily subject to the commanding officer's governance. There were usually in every post which was proprietary, and not purely military, that indispensable official in a French settlement, a public notary. Every public, as well as private transaction was made in his presence as a solemn witness and recorder. The absence of any evidence that Detroit had such an officer in La Mothe's time shows that affairs were rudimentary."

The appointment of Navarre to the post of Detroit, would mark an era in legal proceedings if we were able to obtain the records kept by that officer. Unfortunately, at the present time, his records have disappeared, and there is no mention of their existence in any publication. The authority usually granted a notary, permitted him to act in the capacity of a judge or justice in certain cases, and in the case of Navarre, his well known qualities, and his attendant office of sub-intendant, makes it more certain that he acted in the capacity of a judge during the entire

period of French occupation, from 1730 to 1760.

\*The complete absence of records in the two eastern Canadian capitals, Montreal and Quebec, of Detroit's judicial affairs, furnishes evidence that all of these matters were attended to locally, and that Navarre and the different commandants governed Detroit, in these particulars, without outside assistance. No matter of local importance was taken up and discussed without the approval of Navarre. He saw that the taxes were levied and collected. He collected the tithes and church dues. He listened to the complaints of citizens against the increase of taxes, or the unjust treatment of citizens by the officers. He was the judge between quarreling citizens, and it was by his judgment that delinquents were forced to pay their just debts or become bankrupt. He was so universally liked and considered so just in his decisions, that upon the surrender of Detroit to the British in 1760, the latter concluded to retain Navarre in his office of notary.

It was absolutely necessary to have all marriages performed by the village priest, and it appears almost necessary that the ante-nuptial contract which was uniformly entered into by the parties, should be drawn up by and executed before the notary and sub-intendant, Navarre.†

\*I would note here, as I have in other places in the following pages, that these papers were first written in 1902, and that since that date, the missing records above mentioned, have been recovered in part. So also has been brought to light the public registry kept by Cadillac up to the time of his departure in 1711. The latter is now in print in the Michigan Pioneer and Historical Society records, Vol. 34.

†The Navarre family in later years furnished another local judge, a direct descendant of the old notary, in the person of Henry Navarre Brevoort, Judge of the Circuit Court for Wayne County.

#### DETROIT BEFORE THE CONQUEST.

For some years prior to 1755, both France and England had laid claim to the Ohio lands and both were, at different times, in actual possession of parts of the territory. The attempt of France to maintain this possession by the erec-



tion of forts and stockades had so incensed the English, that hostilities were begun as early as 1754. These acts of retaliation were not official, it is true, but nevertheless they were so offensively committed that war must necessarily have ensued unless affairs were amicably arranged at once. Negotiations were soon pending for this purpose, between Paris and London.

"A project of preliminary convention"\* was submitted by the French Crown, on February 23d, 1755, for such a settlement. Among other things it provided that commissioners should be appointed to agree upon and draft proper articles of arbitration, and until these commissioners should make a report, the English nation should entirely withdraw its troops and traders to the east side of the mountains, that is away from the western border of Virginia, and that the lands lying between the mountains and the Ohio river should be neutral, to be inhabited only by the Indians, and that no traders, either French or English, should be there permitted.

The counter project, submitted by Great Britain a few days later, March 7, 1755, sets forth that Great Britain owned all the lands occupied by the Iroquois Indians, and that France had encroached upon these lands by establishing posts at Niagara and Detroit. It however agreed in most particulars with the original proposition, but it provided that the French forts at Niagara, Presqu' Isle, on the River Aux Boeufs, and on the Ohio, should be demolished at once.

It further provided that a line should be run to commence on the east side of the Baye de Canagahogue (Cuyahoga) (Cleveland) and run thence directly south to the 40° of latitude, and continue to the southwest till it touches the 37°, and that another line be run to commence at the mouth of the Miamis (Maumee) river of Lake Erie, and run along that river and thence south or southwest to the source of the Wabash or St. Jerome, and continue along that river until it reached the Ohio, and then by a right line to the 37° of latitude, there joining the first line.

All the forts, fortresses, constructions and establishments made by either party

within this territory were to be destroyed, and the entire country should become neutral, to be inhabited only by the Indians, but open to the free trade of both French and English. The French rejected this proposal, and within a short time the war ensued that did not end until 1763. If France had accepted the proposals of the British commissioner, all of the land that we now know as Canada, Michigan, Illinois and Wisconsin, and part of Indiana, would have remained French territory. The French-Indian war would never have taken place.

The transfer of allegiance from France to England, the subsequent position that Detroit occupied, under British control, until the passage of the Quebec Act in 1774, and the standing of the post and its dependencies under that act, are subjects worthy of much study.

If in the following pages something new and substantial has been added to the knowledge we before possessed on that subject, the writer will be satisfied that his work has not been in vain.

The published histories on this period are deficient in information on this, one of the most important matters in the annals of the old North West Territory, and the little that is here added, we may hope, will be followed by more and greater disclosures as old records are brought to light.

In 1760, Detroit was turned over by the French to the British. Judge Cooley says that the conquest of Canada was far from being either beneficial or agreeable to the conquered people. The French rule had been arbitrary and irresponsible, and the English rule was not less so. "The British commander at once assumed supreme authority, and for the purposes of the administration of justice created a series of military courts, to which was given jurisdiction of all controversies, with no appeal in case of dissatisfaction, except to other military authorities, or to the commander himself."

In making this statement, the historian is only partly correct. Almost the first act of Major Robert Rogers, on his taking possession of Detroit in 1760,

\*British Museum Addn. Mss. 15874.



was to retain Navarre in the position he had held so long. It is not, however, to be understood that he retained all the powers he had possessed under the French rule. He was employed more for political purposes, and as an intermediary between the incoming English and the discontented French. The newcomers brought with them the idea of trial by jury with a justice or judge as presiding officer. This manner of administering justice was not agreeable to the French citizens, and they usually preferred to obey the authority of the commandant.

Robert Rogers took possession of Detroit and the western country in pursuance of an agreement entered into by Vaudreuil and Amherst, that if, on the conclusion of peace between England and France, Canada should be returned to France, the posts would simply be evacuated, and no further claim would be made upon them by England.

The result of the war was far different from the expectation of Vaudreuil at that time. The Treaty of Paris, at the end of the war, was made in 1763, and by its terms Canada became British territory.

Up to this time, Canada was claimed by the French to include all of the land west and north of the Ohio river, and north of the present line of New York. We are not interested in the exact boundary lines, and it is sufficient to say that what are now known as the states of Ohio, Indiana, Illinois, Michigan and Wisconsin, as well as modern Canada, were included in the general designation of New France or Canada.

One of the subjects of contention between France and England was the Ohio region, which was claimed by both countries, and there are some assertions that lands further north, even including Mackinac, were claimed as British territory before the war.

There were many incidents showing the claims of England to these northern lands, but one or two will be sufficient to be given here.

Before the year 1689, a small post or station, called Detroit, was built by the French upon the shores of the St. Clair river, near the present location of Port Huron. This was destroyed in that

same year by Baron La Hontan, under instructions from his government. It was at this place that the Baron seized the two English officers, Gregory and Rosebloom, with their boats of soldiers and traders, who were seeking to proceed further north, claiming to be on English territory.

The post of Detroit was founded June 24, 1701, for the avowed purpose of preventing the English from coming to trade in that part of the country.

Almost on the very day that Detroit was founded, the Iroquois Indians gave a deed to Great Britain of the lands as far west as Chicago.\*

There are two letters on the subject of the French encroachment on Indian lands among the manuscripts in the State Library at Albany. The Indian name for Detroit, is Tjenghsaghrondie. It is spelled 70 different ways. The letters read as follows:

#### BOUNDARY DISPUTES.

*Report of Laurence Clease ye interpreter come from Onnandago ye 10th of Octob 1701 in Albany.*

Pursuant to the instructions given me the 5th instant I went to Onnandago where I found ye Sachims of ye Sinnekes, Cayugas and Onnandagos convind, who had bolts sent them from ye Maguass and Oneydes, they asked me if Quidor was come according to their desire. I told them no, and that he had great inclination to come but ye season of ye year would not admitt it, there being dayly much rain and cold weather to be expected. Then they asked me if ye Secretary, Mr. Livingston was gon to England according to their earnest request made in ye publike propositions when they were Last at Albany to acquaint the King how ye French incroached upon their country for they had not only made a fort at Tjughsaghrondie, but have, since ye Sachims were last at Albany, made two trading houses on this side of ye Lake hard by ye Sinnekes at ye two principall Places where our Indians must pass by, when they come from hunting, and have brought thither all sorts of Indian goods, one of

\*This deed is dated July 19, 1701, and is found in Volume 4, page 908, New York, Colonial Mss.

ye Places is called Dekana Sachtiago, and the other Tenchjuchpago, we fear if the Secretary does not goe who knows all our affairs that Letters will not be regarded and then we shall Loose our country and our hunting and those of Albany will Loose their Trade for we see ye french are a diligent People—always in action but ye People of Albany are as if they were Lame or Cripple, goe no where to Trade to no Indians.

The French are passed by to ye Fort which they have made this Summer and have a french woman in each Canoe, but, we see not that Corlair does any thing.

I answered that ye Secretary was gone, upon which they said, are the letters gone, I told ym I did not know. I told them further yt I was come upon their message which they sent to Albany, concerning their Resolution to send Agents to make Peace with ye Davaganhads and other farr Indians at Tjugh-Saghrondie and yet I had a great bolt from Corlair to send wil ym to confirm ye Peace and to assure ye farr Indians that they should be welcome to come to Albany and well Treated where they would find goods cheaper than at Canada. The Sachims were well satisfied and took ye bolt sent by Corlair, and said they had not only concluded to make Peace with ye farr Indians, at Tjughsaghrondie (according to their desire signified to ym by a Sinneka Prisoner whom they had released and sent to ye 5 nations for yt purpose) but have sent ye Prisoners of ye farr Indians away before with some Indians to acquaint ye Dowaganhaes that they were a Comoiing to make peace with them at Tjughsaghrondie, in which Peace our Brother Corlair shall be included, and we will make one article that they come and trade at Albany for which the Path shall be open and clean.

Concerning ye bad news that the messenger said was at Onnandago the matter is this, a rumour is spread among the Indians that DeScannisson, and another when he was Last at N. Yorke should betray the five nations to ye governour of N. Yorke to be Destroyed and that he should have done ye same to ye governour of Canada, giving a bolt to each governour and that this story

should come from Kendrik ye Maguass who should have said it to Aqueenders and ye DeKanissord has sent a post to the Governour of Canada to free himself of this imputation. When I came back I asked Kendrik ye Indian and Aqueenders but they know nothing of ye matter, being a notorious lye, however it hath made a great stirr among ye Indians in this country I found ye Indians at Onnandago very much divided in two factions, ye one for ye English and the other ye French, but I believe those that are for this government are ye strongest and those Sachims that are of our side desire me that I would tell Corlair and Quinder yt it was their desire yt a messenger be sent to Canada to forbidd the Governor of yt Place to make such trading house on their Ground for those trading houses would be soon converted into Forts.

Laurence Clease.

The following is the second letter, written a short time after Detroit was founded:

*To the Hon. John Nanfan Esq. Lieut. Gov. and Commander in Chief of ye Province of Ny Yorke &c.*

The humble Memoriall of Rt. Livingston Sec for yr Indian Affairs sheweth How that he has been lately at Albany to Enquir into ye state of ye Indians of ye five nations who he finds by ye interpreter lately come from them that they are very much divided among themselves by a french faction among them as by ye said Interpreter's report under his hand appears. That ye French of Canada have not only built a new fort this summer at Tjugsaghrondie between ye lake of Sweege and Ottowawa the principall place of Bever hunting but have lately built two trading houses on this side of ye lake near ye Sinnekes and stored them with all sorts of Indian schools. He doth therefore offer it as his opinion for the expelling of french from his Majst territories and preventing of the like Incroachments for the future that a party of men be sent forthwith to destroy ye said Trading houses save the goods and distribute them among the Indians and discharge ye French from settling on this side of ye lake. That Lawrence ye Interpreter be sent with some of or such as your

honr. Shal think fitt as far as Tjugh-saghrondie out a hunting with some of our Indians to make a discovery of what the French are a doing, what fort they have made, what treaties they have agreed to with ye farr Indians, havn our Indians conclude their peace with ye said far Indians and on what terms, and withal to endeavor to bring some of ye farr Indians to Albany to trade.

Robt. Livingston.

October 20, 1701.

Notwithstanding these claims of ownership by the English and many other assertions that appear in the official correspondence between the two governments, the French remained in full possession of Detroit until the surrender to Robert Rogers. From 1760 the English were in the actual possession of all of the disputed territory, but during the first three or four years, they were able to do very little except to hold on to this possession. There were but very few English traders at Detroit. The garrison was employed in obtaining provisions to keep itself alive, and in preventing the destruction of the place by the Indians, for this was the period of the Indian uprising—the conspiracy of Pontiac. Nothing but a pure military rule was needed, and such a rule was adequate to the situation.

It was only after peace had been declared with France, and the Indian tribes had been pacified, that the people began to turn their attention to the formation of a civil government.

#### CAPITULATION OF QUEBEC AND MONTREAL.

In the course of the preparation of this work Mr. Sol White, of Windsor, Ontario, ex-member of the provincial parliament, wrote a letter on this subject which is very interesting, as it outlines the generally accepted theory of Canadian government at that time. The discovery of new records has changed the form that history must take in the future, but the letter of Mr. White is still of interest. It runs as follows:

"The articles of capitulation of Quebec, dated the 18th day of September 1763, demanded by Mr. de Ramezay,

the king's lieutenant commanding the upper and lower towns of Quebec, knight of the military order of St. Louis, and granted by their excellencies, Admiral Saunders and General Townshend, etc., commanding the armies of his Britannic majesty, contain, among other provisions, clauses that the inhabitants should be preserved in the possession of their houses, goods, effects and privileges, and that they should not be removed, nor forced to leave until a definite treaty between his most christian majesty and his Britannic majesty had settled their status, and until the possession of Canada had been decided.

"The articles of the capitulation of Montreal, dated the 8th day of September, 1760, between their excellencies, Maj.-Gen. Amherst, commander-in-chief of his Britannic majesty's forces in North America, and Marquis de Vaudreuil etc., governor and lieutenant-general for the king in Canada, contains, among its 55 articles, provision that the troops, etc., should have all the honors of war, etc., and if Canada, by the definitive treaty should remain to his most christian majesty, the Marquis de Vaudreuil, if he should have left before the news of peace had arrived, should return, and every thing should be returned to him under its former state and that the capitulation should become null and of no effect, but if, by the treaty of peace, Canada should remain in the power of his Britannic majesty, then all the French Canadians and other persons who wished to withdraw, should have permission to do so, and the English general would procure them passage; but those who remained should become British subjects, and they should keep the entire peaceable ownership and possession of their property, and enjoy the free exercise of the Roman catholic religion and with other immunities, rights and privileges, and be governed according to their laws, customs and usages established theretofore in Quebec.

"The definitive treaty of peace and friendship was concluded at Paris, the 10th day of February, 1763, and thereby, his most christian majesty ceded and guaranteed Canada, and all its dependencies to his Britannic majesty, who agreed to grant the liberty of the cath-

olic religion to the inhabitants of Canada, and it was thereby declared that no privilege, favor or indulgence, would be suffered to subsist contrary to the said treaty, etc. By the royal proclamation under the said treaty of Paris, issued on the 17th day of October, 1763, among other provisions, a distinct and separate government, styled and called "Quebec" was constituted, with power and direction to the governor of said colony, with the advice of his council, to summon and call a general assembly, and with further power to said governor with the consent of said council and the representatives of the people so to be summoned, to make, constitute and ordain laws, statutes and ordinances for the public peace, welfare and good government of said colony, and of the people and inhabitants thereof, as near as may be agreeable to the laws of England, and General James Murray was, on the 21st day of November, 1763, commissioned as the first governor thereunder.

"No assembly was called under this commission, it is said, because the governor declined to act thereunder, on the advice of his council, on the assumption that English law had been introduced by the royal proclamation of 1763. A state of confusion ensued in the administration of justice, and upon representation of the matter, and in accordance of the terms of capitulations and definitive treaty the Quebec Act, 1774, was passed, which, in the first place, defined the limits of the colony, in addition to the present westerly limit of Ontario, to include that part of the territory commencing on Lake Erie at the northwest angle of the State of Pennsylvania; thence along the western boundary of that state to the river Ohio; thence following the said river westward to the Mississippi, and thence northward to the southern boundary of the territory granted to the Merchants Adventures of England, trading to Hudson Bay.

#### THE COLONY OF QUEBEC.

"Thus Quebec included the states of Ohio, Indiana, Illinois, Michigan, Wisconsin, and part of Minnesota until 1783, when the present boundaries were agreed upon between Great Britain and the United States.

The Quebec act also provided that the proclamation of 1763, and the commissions and all ordinances and all commissions of judges and other officers be revoked and made void. And it also enacted that the inhabitants professing the religion of the church of Rome should have, hold and enjoy the free exercise of their religion, and that all his majesty's Canadian subjects should also hold and enjoy their property and possessions together with all customs and usages relative thereto, and all other civil rights in as large, ample and beneficial manner as if the said proclamation, commission, ordinances and other acts and instruments had not been made, and that in all matters of controversy relative to property and civil rights, resort should be had and be determined agreeably to the laws and customs of Canada as the rule for the decision of the same. And it was further provided for the future welfare and good government of Quebec as constituted, that a council to consist of persons resident therein, not exceeding 23, should be constituted and appointed to manage the affairs of the province, with power and authority to make ordinances for the peace, welfare and good government thereof.

#### PROVINCIAL READJUSTMENTS.

"The constitutional act of 1791 divided the province of Quebec into two separate provinces called "Upper Canada" and "Lower Canada," and provided that there should be in each a legislative council and an assembly, with power to make laws for the peace, welfare and good government thereof, respectively, not repugnant to this act etc. (having reference to the rights and privileges provided for in the capitulations, the treaty thereunder and the Quebec Act.)

The Union act of 1840, reunited upper and lower Canada into one province, under the name of the province of Canada, and provided that there should be one legislative council and one assembly with power to make laws for the peace, welfare and good government thereof not repugnant to the act etc.

"The confederation act, 1867, united the provinces of Canada, Nova Scotia and New Brunswick under the name of the "Dominion of Canada," which was



divided into four provinces, namely Ontario, Quebec, Nova Scotia and New Brunswick, and provided that there should be one parliament for Canada, consisting of the king, the senate and the house of commons, and legislatures for each of the several provinces, and a distribution of legislative power. The legislatures were empowered to make laws in relation to matters coming within the classes of subject enumerated in the act of 1867, and the Dominion parliament was empowered to make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects by the act assigned to the legislatures. Several other provinces have since been added to the dominion under similar conditions.

"Thus it is apparent that the military government of Canada ceased within

four years after the capitulation, and within one year after the definitive treaty of Paris, and a legislative assembly was constituted which existed up to the time of the passing of the Quebec act, 1774, under which a council of the residents of Quebec were given power to manage the affairs of the people until the passing of the constitutional act, 1791, which provided a legislative council and assembly for each province, and the Union act, 1840, reuniting the provinces, made similar provision as well as "the confederated act, 1867." Thus Canada has enjoyed the utmost freedom and legislation, and its government in that respect, the most responsive to the will of the people.

"Windsor, Ontario, August 7, 1902."

Mr. White, while not entirely correct, has outlined the work and it is left for us to fill in the details.

*(To be continued.)*



#### Non-Suited.

He pressed his suit at the summer resort,  
 With girls who wealth possess.  
 But every one of them turned him down,  
 And now fall's coming, and, here in town,  
 He hasn't a suit to press.

# A National Awakening to the Need of Forest Preservation.

In the last ten years forestry has advanced in this country from an almost unknown science to a useful, growing profession. In that time the number of technically trained foresters has increased from less than a dozen to over 400. Ten years ago there was not a single forest school in the country; now there are several professional forest schools which rank with those of Europe, and a score more with courses in elementary forestry whose usefulness is steadily growing. Forest lands under management have grown from one or two tracts to many, aggregating 7,503,000 acres, scattered through 39 States. The National Forests have increased from 39,000,000 acres, practically unused and unprotected, to 165,000,000 acres, used, guarded, and improved both in productiveness and accessibility. The number of States which have State forests has increased from 1 to 10; and of those which employ trained foresters from none to 11. The membership of forest associations has increased from 3,600 to 15,800. Ten years ago, except for a few of the foremost botanists, European foresters knew more about American forests than did the people of this country. In Europe they were then using preservatives to prolong the service of beech ties, and so adding from twenty to forty years to their life. Here, on the other hand, scarcely a treated tie had been laid, though there are now 60 treating plants, 27 of which treat ties exclusively, and an engineer who recently returned from Europe reports that both in size and mechanical perfection the treating equipment of this country is ahead of any to be found abroad.

And yet American forestry has only passed the experimental stage and got ready to do something. Action, im-

mediate and vigorous, must be taken if the inevitable famine of wood supplies is to be lessened. We are now using as much wood in a single year as grows in three, with only twenty years' supply of virgin growth in sight. Only the application of forest knowledge with wisdom, method, and energy, in the next ten years, can prevent the starving of national industries for lack of wood.

The woodlot offers an excellent opportunity for the practice of forestry. It is accessible enough to allow of moderate cuttings at frequent intervals, and it may be protected from trespass and grazing and from fire, its chief enemy, without an elaborate scheme of defense; then taxation is not a great burden, because the revenue from farm supplies more than meets this item every year, and thus prevents the accumulation of interest.

## PRESERVATIVE TREATMENT OF RAILROAD TIMBERS.

The increase in the number and size of railroad treating plants during the year has been phenomenal. The scarcity of suitable timbers for railroad ties, combined with the high prices which they consequently command, is one of the reasons for the remarkable increase in the number of railroads which are beginning to treat and use the inferior timbers found along their own lines.

*Increase in number of railroad treating plants.*

1902	1903	1904	1905	1906	1907
7	10	13	15	15	27

Reports of the American Railway Engineering and Maintenance of Way Association show that the railroads which have been pioneers in treating timber have found it a paying invest-



# A History of Detroit.

by CLARENCE M. BURTON.

## CHAPTER IV.

This was renewed and continued in force by subsequent acts of parliament.

We will turn now from these statutes that affected the entire Indian country to some of the records of transactions that took place in and about Detroit during the same period. While the references here made may seem somewhat trivial, they show the exact state of the community and what rights the people exercised. They are interesting and important as being authentic reproductions of contemporary contracts, agreements, transactions and proceedings.

### SALE OF SLAVES.

Slavery existed at Detroit, even later than 1800, but it legally existed until the surrender of the post in 1796. There were two kinds of slaves, negro and panis. The latter were Indians, originally captured by the Indian tribes in their wars, the captives being reduced to servitude. I have a bill of sale, or deed, of two slaves, male and female, for 2,000 livres, equal to £123 6s 8d, New York currency. The sale was made in 1777, by Charles Langlade, interpreter for the king, to Pierre Labelle. Langlade will be remembered as one of the Canadians who took an active part in protecting the English soldiers from being massacred at Mackinac in 1763.\*

The following manumission of a Panise slave is found in the public records:

"Detroit, the 11th of June, 1768.

Mr. Sampson Fleming:

Know all men by these presents, that I, John Askin, deputy commissary of provisions, for divers valuable causes and good reasons me thereunto moving do set at liberty and give full freedom

unto my panese slave named Mannette, which I had from Monsr. Burrussa at Michillimackinac, and I do for myself, my heirs, my executors, administrators and assigns forever quit claim title, pretence or demand of bondage, servitude or any other thing whatsoever of, on or in any wise belonging to the said Mannette now set at liberty, and who is, to all intents and purposes, according to the true design and full meaning of this present writing, to be looked upon as she really is a free woman, at full liberty, and mistress of herself to dispose of herself as good seemeth unto her, and engage myself, my heirs etc. forever to defend her in her said freedom and liberty against all and every person or persons whatsoever, by or through any means claiming any title or pretence unto ye said Mannette.

Given under my hand and seal at Detroit, September ye ninth, one thousand seven hundred and sixty six 1766.

JOHN ASKIN.

Witnesses present:

SAMUEL WILLIAMS,  
Lieut. 17th Reg.,

JAMES STERLING.\*

PHILIP DEJEAN, OUR FIRST JUSTICE.

The first justice under English rule was Phillip Dejean. It has been stated that Dejean was a bankrupt merchant from Montreal, and that he came west to better his fortune by leaving his debts and creditors behind, and starting a new life in an unknown country. Apparently he was a man well versed in forms of legal procedure, but it appears, also, that he was subservient to those in power, and much inclined to do what was right

\*Memoir of Langlade in Vol. 7, Wis. His. Society.

perity of the country, idle money and idle labor. The one is as mischievous as the other. It should be the object of government to create a condition where both may be used properly and fairly."

**Rev. Washington Gladden Points Out Duty of Christian Churches.**

"It is in the industrial world that the social crisis sounds its most ominous note. Industrial society has become sharply divided into two classes: Those who own the capital and organize and manage the industries, and those who do the work, and the conflict between these two classes is increasingly bitter and determined.

"If the Christian churches of the land would drop their controversies about creed and ceremony and criticism, and would concentrate their thought upon getting the golden rule established as the law of neighbor life and business life and political life—of all life, an influence would go forth from their assemblies which would speedily fill the world with life and health and peace."

**Nathan Straus Defends Oil King.**

"Mr. Rockefeller is the greatest business man the world has produced. In the conduct of the tremendous enterprise of which he is the head, thousands of men are employed, and among these doubtless are some who have done nefarious work. What right have we to heap the sins of others on the head of John D. Rockefeller? I believe sincerely that this man has been more sinned against than sinning."

**Judge Grosscup Asks If Corporations Shall Be**

**People Or a Class.**

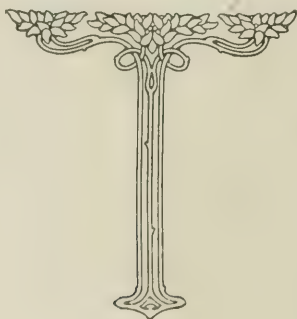
"There is an issue—a concrete issue—just as certainly rising to demand a trial and verdict as did the slavery issue 52 years ago, when a new great party was raised up to meet it. In my judgment that issue will take something like this form:

"Shall our corporate form of national activity—shall this great and growing domain of national activity remain a mere class possession, as the landed domain on the other side of the ocean is a class possession—a restricted proprietorship, the people mere retainers—or will it be raised into truly national possession—taking its place alongside the farms of the country, the savings of the country, the labor spirit of the country as a possession of the people and by the people—the people here, as in our agricultural domain, individually the proprietors.

"Mr. Roosevelt has not yet shown that he comprehends that there is such an issue—has not yet shown any comprehension that it is only by a thorough reconstruction of the corporation as a medium of holding property that our corporate past can be divided from what I trust will be the country's corporate future, and possibly the time is not ripe to frame or submit that issue."

**Must Obey Civil Power, Declares Cardinal Gibbons.**

"Catholics must have no less respect for the head of their government than for the pope in his department. There is a great evil in this land that forebodes revolution or a partial upheaval of society. The only way to avoid a catastrophe is to teach our young men to respect the authorities placed over them."



**No Joke.**

"The mother-in-law joke is played."

"I should say so. The mother-in-law long ago ceased to be a joke."

or wrong without question, as requested by his superiors. Such actions made him a convenient tool, but not a respected citizen. The date of his appointment as notary and justice is not known, but it was not many years after the coming of the English.

The following interesting letter regarding Dejean is to be found in the Proceedings of the Mass. His. Soc., 1873-5, page 237:

"Caen, Lower Normandy,  
1 July, 1786.

I embrace the favorable opportunity of the bearer hereof, Mr. Philip Dejean, a gentleman much esteemed by the good Marquis de la Fayette, to recall me to your Excellency's remembrance, and to beg for him, your kind protection and countenance. We had solicited for him the agency of Georgia, from whence we had conceived hope our government would draw a considerable quantity of live Oak, but the influence of the northern contractors from Russia and Sweden have upset all our schemes.

He has resided in Canada 32 years, 18 of which he has spent in Detroit. He proposes to live some time in your town.

Will your Excellency be pleased to remember the different seeds of artificial grasses I sent you some time before I left New York. I hope they have fructified, that their use is now better known. They most certainly are of the greatest importance to husbandry. I have desired Mr. Dejean to examine those fields here which are covered with them, that after having been an ocular witness of the vast quantities of fodder they bring forth, he may more particularly explain to your excellency. I have desired him to deliver you a small quantity of the same seeds, that in case of any accident, these useful tryals may be renewed.

I am now employed in the second edition of the "A Farmer's Letters."

ST. JOHN DE CREVECOEUR.

To Gov. Bowdoin."

He was a native of Toulouse, parish of St. Stephen, France, son of Philip Dejean, who was counsellor of the King's presdial and seneschal's court (an inferior court), and of Jeanne Bogue de Carberie, his wife. Philip Dejean's (our judge) first wife was Marie Louise Angier (or Angé). His second wife

was Theotiste St. Cosme, daughter of Pierre St. Cosme, and Catherine Barria, his wife, of Detroit.

At the time of the second marriage (about July 25, 1778), Dejean had a son, Philip (or Phillippe) aged 4 years (he was born Sept. 12, 1772), by the first marriage. There were two other children born of the first marriage who died before the death of their mother, Marie Louise, born Sept. 26, 1769, and Marie Louise, born Aug. 24, 1770.

The public records of Detroit begin with this officer. It cannot now be determined whether these records appertained to the office of justice or of notary, though they probably belong to the latter office.

The ordinance of the Governor and Council of Quebec passed November 6, 1764, provided that all original grants and title deeds made by the French government before November 3, 1762, by which any lands were held, should be registered in the proper office, as provided by the royal instructions to the governor dated December 7, 1763.

It was ordered that such title deeds and other papers be left with the register or deputy register of the office of enrollments, before June 24, 1765. The register was required to enroll them at full length in a book to be kept for that purpose in the original language of the conveyance.

All subsequent conveyances, passed after November 3, 1762, were also to be recorded in the same office.

All conveyances of real estate were required to be proved before the register or his deputy, or other person qualified for that purpose, either by personal acknowledgment of the grantor, or by the oath of one of the witnesses. The acknowledgment or proof was to be indorsed on the paper, and should be allowed as evidence in any court.

If a deed was not recorded within 40 days after its execution, it was deemed fraudulent against a subsequent good faith purchaser.

This ordinance would not be operative, at the time of its passage, in Detroit, which was not in the province of Quebec, but the commandant or the

notary may have thought it a wise provision to follow, and therefore begun the Detroit Registry in pursuance of it.

As the Quebec act annulled all of these ordinances except such as were re-enacted, it is not certain that it ever became operative in Detroit.

By section 42 of the instructions to

the records were in his possession, and kept by him. The first few pages are filled with French documents that were evidently in possession of Navarre, and antedated the British occupation; then, about 1767, commence the current records of the place. Deeds, notes of hand, contracts of various kinds, wills, mar-



Governor Murray, in 1763, all French inhabitants in the Province of Quebec were compelled to record the deeds or grants of lands owned by them, in the secretary's office. Such deeds were to be entered at large in the office of the secretary. This act, of course, did not apply to Detroit.

THE PUBLIC RECORDS OF DETROIT.

Dejean being both justice and notary,

NOTE—Can. Arch. M. 230.

riage agreements and miscellaneous papers of all kinds were recorded. It was not a court docket, nor are there any evidences of law cases being carried on as we understand that kind of work. No judgments were rendered. There was no court for the probate of wills, and it is difficult to tell what effect the recording of a will among these records would have. Before me, as I write, is the record of the will of Peter McIntyre, of Toronto, living in Detroit at the date



of the will, April 21, 1768. He gives to George McBeath, merchant, a tract of land on the North River above Albany, New York, two miles above Stillwater, on the east side of the river, joining on a small river or creek, now in the charge of Archibald Campbell, Esq., containing 250 acres, as will appear by the deed recorded by John Smith, notary public in New York. This will was witnessed by Obadiah Robins, Edward Chichester and P. Dejean, justice of the peace. Following this will is a deed of the same

nearly suspended in 1764 because of the Indian troubles, but it gradually picked up in the following years. The soldiers in the garrison were sufficient in number to protect the place, and were paid by the government. The village was surrounded by a picket line that served as a protection against the Indians. This picket line was continually in need of repairs, and the burden of performing this work was the cause of levying taxes on citizens and farmers.

Even the small amount necessary to



land by McIntyre to McBeath for £230, New York currency.

Another duty performed by the notary was the protesting of dishonored commercial paper. These records contain many odd matters that may be of sufficient interest to be mentioned; a full description would be out of place, but an occasional reference will give some idea of their contents.

At this time Detroit was but a village, composed mostly of French habitants who were natives of the country, and a garrison of British soldiers. The Pontiac war that broke out in 1763, ended the following year, but confidence on the part of the English was not restored, for there was no love lost between the Indians and English. The Scotch, Irish and English traders were rapidly supplanting the French, and the latter were moving out of the village to the adjacent farms which they owned. The tide of immigration that had set in at the coming of Rogers in 1760, was

be raised for this purpose seemed a heavy burden to bear, and both those living within, and those living without the palisades, grumbled at the cost, and complained of the amount of the taxes. There was no fire department to support, no policemen to pay, no schools to be maintained. Such things were unheard of at that time.

There was no Protestant church or minister in the place, and if the Catholics were oppressed by the collection of tithes for their church, their remonstrances were never heard outside of the walls of Ste. Anne. There was no bank in the village, and the larger trading houses issued and accepted drafts on the merchantile houses of Montreal as a means of transacting the business of exchange. These drafts were not always promptly paid, and when dishonored the notary was called upon to protest the paper.

One of these protested documents appears in the public records under the





George Christian Anthon."

The interest in this deed centers on the parties to the conveyance. Pontiac was the great chief of the Ottawas, a determined enemy of the English—one of the most important and enterprising Indians known in the Northwest. His name will always be connected with the siege of Detroit, and will appear on the page of history with that of Brant, Tecumseh and Black Hawk. How he could ever have come to like Dr. Anthon sufficiently to present him with a large tract of land, 800 feet wide on the river, with a depth of three miles, I do not know, but perhaps some delver into the romance of the time will discover that the doctor had rendered assistance to the Indian for which he was grateful, and to repay which he made this gift.

The name of Dr. Anthon is familiar to the generation of students who are now of middle age. He was a surgeon and physician in the British army, and was employed for some years in the garrison at Detroit. He was born in Germany, August 25, 1734, and came to New York as a British prisoner of war in 1757. His first visit to Detroit was with Maj. Rogers in 1760. In 1761 he was appointed surgeon mate in the Sixtieth Regiment of Royal Americans. He remained in Detroit until the retirement of Col. Gladwin in 1764, and with the colonel he went to New York. He was again in Detroit in 1765, for the deed above mentioned is dated September 8 of that year. He did not remain long, but came again in 1767, and stayed until the close of the revolutionary war. He was twice married, both times in Detroit, and both times to members of the family of Navarre. His first wife was Mariana Navarre, who died in 1773, leaving no children. His second wife was Genevieve Jadot, who was 15 years of age at the time of her marriage to the doctor in 1778. Of the issue of this marriage, three of his sons became prominent in after life. They were: John Anthon, a prominent lawyer and writer of legal text-books in New York; Rev. Henry Anthon, rector of "St. Mark's in the Bowery," and lastly, the lexicographer, Professor Charles Anthon, one of the most eminent Greek and Latin scholars that America has produced.

Turning again to our old records, we find the additional names of J. Bte. Campau and Gabriel LeGrand as notaries, and the latter also as judge and justice of the peace. It would seem that while the two offices might be conferred upon the same individual, their uniting was not a necessity, and their powers and duties were dissimilar.

Campau was a member of the old family by that name, and had endeared himself to the Americans by furnishing the protection of his house to the soldiers who were surprised and stunned by the attack of the Indians at the battle of Bloody Run in 1763. He did not have much work to do as a notary, and the little he did do was exclusively among the French citizens. LeGrand was also employed almost exclusively among the French people. He seems to have been incompetent, for some reason, and not finding employment in Detroit, he wandered off to Kaskaskia to reside, and there succeeded in getting the land titles so badly mixed up that the land commissioners made loud complaint of his inefficiency.

These notaries drop out of sight in the village history, but the name of Dejean is carried along for many years.

There is some evidence that prior to 1768, a court was appointed for the trial of petty causes, for on page 32 of volume "A" of the old records, is a document reading as follows:

"Detroit, May the 23, 1768.

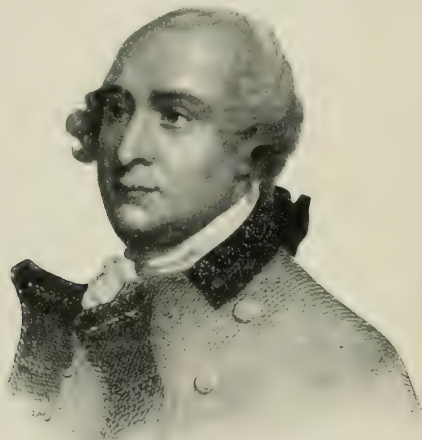
By order of George Turnbull, Esq., captain in the Second battalion of his majesty's Sixteenth reg., commandant of Detroit and its dependencies, at the request of Philip Dejean, Esq., justice of the peace, in consequence of sundry complaints made against him, we, undersigned subscribers, having duly heard, and carefully examined into the grievances set forth by the said Phillipe Dejean, Esq., are of the opinion, that the fees established by the committee appointed by Maj. Robert Bayard on the establishment of the court of justice at Detroit, are just and reasonable, and ought not to be less. That every prisoner confined in the guardhouse, whether for debt or misdemeanor, shall, on his being set at liberty, pay one dollar, and every batteau or canoe arriving here

loaded with merchandize belonging to any person or persons not possessing property, any lot or building within the fort, shall pay two dollars, the moneys ensuing from thence to be applied as in the time of the French government, to help keep in good and sufficient repair the fortifications around this town, as will more fully appear on our former petition to Captain Turnbull for that purpose.

No person having appeared before us

iams was the father of John R. Williams, the first elected mayor of Detroit. He was, in later years, a justice of the peace, and we will find frequent mention of him further on. William Edgar was an extensive trader, and, for some time, a member of the firm of Macomb, Edgar and Macomb, the largest trading house in Detroit.

As Bayard was in command at the post in 1766, it is probable the court referred to as established by him was be-



*Grey Carleton*

to make any complaint against said Philipe Dejean, with respect to his public office, we are of the opinion that they are ill founded, and without cause."

This document is signed by James Sterling, Col. Andrews, T. Williams, William Edgar, and John Robison, all bearing English names, and Eustache Gamelin, P. St. Cosme, J. Cabasie, Cicot, T. Mollere and A. Barthe, representing the French population.

Of the above names, James Sterling was a well-known trader and interpreter, and the hero of the romance, "The Heroine of the Straits." Thomas Will-

gun in that year.

The first election in Detroit was held in 1768, and the public record of that event is as follows:

"May 26, 1768.

We, the undersigned subscribers, do vote for and unanimously approve of Phillipe Dejean to be judge and justice of the district of Detroit and its dependences:

Sam'l Tymes, John Steadman, David Edgar, Reaume, Hugh Mitchell, John Vicegerier, William Edgar, Isidore (Chenet), James Abbott, Col. Andrews, John Robison, George McBeath, George

Knaggs, Edward Pollard, James Cassety, Benjamin James, Allan McDougall, John Farrel, Thomas Barber, H. Shaack, Thomas Williams, Richard McNeal, Thunis Vesscher, Jacob Lansing, Hugh Boyle, Samuel Kenneday, LaBute, Alex. Mercer, George Meldrum, Robert McWilliams, Louis Prejean, Esteve, and Le Gras."

The qualifications necessary for the privilege of voting on the occasion are not given, nor does it appear that any questions were asked of the proposed voters. Everyone voted who wished to, and was able to sign his name, and some voted who could not write.

Some of the electors were prominently connected with Detroit in later years, such as James Abbott, who was the father of that James Abbott who lived on the site of the present Hammond building, and was one of the early post-masters of Detroit; George Knaggs, the Indian fighter,\* James Cassety, who, in later years, was a "rebel sympathizer," and was sent down to Quebec as a prisoner for that reason; Thomas Williams, referred to above, and George Meldrum, the owner of the Meldrum farm, east of Meldrum avenue, and the ancestor of the Eberts family of the present Detroit.

Hugh Boyle was murdered in 1773, by his employe, at Mackinac.

Citizens were apparently ignorant of our modern method of voting by secret ballot, and it would seem that the paper, of which the above is a copy, was drawn up and carried around for the signatures, and that the system of viva voce voting which prevailed toward the end of the eighteenth century, was not in vogue at the time of this election.

To make the election still more secure, a petition in French was drawn up, and sent to General Gage, to indicate the joy and satisfaction of all the people, both French and English, on the choice of Dejean as justice. This petition bears the names of St. Cosme, Stephen Linch, Richard McNeal, Lachlan MacIntosh, Medard Gamelin, Dominique La Brosse, Demers, Ju. Poupart, Lafleur,

J. M. Legras, E. Gamelin, Claude Campau, Joseph Cabassier, Labutte, pere, Pi. Potier, M. J.,\* Joseph Pouget, Isadore J. Gignier, Charles Moran, Barthe, Marantet, Godet, Simon Campau, Antoine Gamelin, and Mumford.

Descendants of many of these petitioners and electors are still living in Detroit. Scarcely a name appears in these lists that cannot be traced to some family of the Detroit of the twentieth century. All of these papers, as well as the final approval of Maj. Bayard, and the commission of Captain Turnbull became the property of Dejean, and were preserved by him in the records he kept. The commission is of interest to show the powers and duties of the justice, and reads as follows:

"By George Turnbull, Esqr., captain in Second battalion of his Majesty's Sixtieth regiment, or Royal American regiment, commandant of Detroit and its dependencies, to Phillipe Dejean, merchant at Detroit:

I do nominate and appoint you justice of the peace to enquire into complaints that shall come before you, for which purpose you are hereby authorized to examine by oath such evidence as shall be necessary that the truth of the matter may be known:

Provided always, that you give no judgment or final award but at their joint request, and which by bond they agree between themselves to abide by, but settle the determination by arbitration, which they are likewise to give their bond to abide by; one or two persons to be chosen by each, and if they cannot agree, and have named two only, you name a third, and if four a fifth, and their determination to be approved by me before put in execution.

I further authorize and empower you to act as chief and sole notary and tabillion, by drawing all wills, deeds, etc., proper for that department, the same to be done in English only, and I also appoint you sole vendue master as may happen here in the usual manner.

Given under my hand and seal at Detroit, this 24th day of April, 1767.

GEORGE TURNBULL."

\*Chene wrote his first name "Isadore" only.  
\*See the History of the Knaggs family. Thomas Barber was the great-grandfather of Ex-Senator Thomas W. Palmer.

\*This is probably S. J.—Society of Jesus. Potier was the priest in charge of the Church of the Assumption, at Sandwich.

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# A History of Detroit.

by CLARENCE M. BURTON.

## CHAPTER V.

This appointment was sent by Dejean to Gabriel Maturin, an officer in the 35th Regiment, and elicited following letter of congratulations:

New York, June 29, 1767.

Sir:—

I have received your letter of the 12th of May.

I am sorry you experienced any misfortune since I had the pleasure of seeing you in Montreal, but hope very sincerely, your present establishment may enable you to retrieve them, the more so, as I believe they will depend upon yourself, being approved of here during good behavior, which, I dare say, is of course as long as you think it your interest to retain them.

Major Bayard has received the General's orders upon this head, and I hope the mode he has adopted may be agreeable both to you and Mr. LeGrand.

I return you the paper you committed to me, as it may be of use to you hereafter, and I have only to add that I shall always be,

Sir,

Your hearty welwisher and

humble servant,

G. MATURIN.

To Philip Dejean.

Judge Campbell says that Philip Le Grand was probably appointed justice by Bradstreet in 1765, and that there are evidences that General Gage expected Dejean to supercede LeGrand. This seems to be confirmed by the above letter.

The powers of the justice were very limited and consisted of little more than the ability to administer oaths to witnesses, and to appoint the odd members of a court of arbitration. Seemingly

there was nowhere vested any authority to carry an award into effect unless the military arm of the commandant was used for that purpose. Attached to the foregoing commission is an authorization from Maj. Bayard, which explains the duties of the justice and the object in appointing him, as follows:

"Whereas, it has been represented to me by the trading people and others residing at Detroit, that some temporary form of justice for the recovery of debts has become absolutely necessary, and having taken this matter into consideration, and finding the utility of such an establishment, I have accordingly granted them a temporary court of justice to be held twice in every month at Detroit, to decide all actions of debt, bonds, bills, contracts and trepasses above the sum of five pounds, New York currency, and confiding in Phillipe Dejean for his uprightness and integrity, I do hereby nominate and appoint him, the second judge of the said court of justice at Detroit.

Given under my hand and seal at Detroit the 20th day of July, 1767.

ROBERT BAYARD,

Major-Commandant of Detroit."

It is not stated where Major Bayard obtained his authority to appoint and commission a justice.

There has been some speculation as to the meaning of the term "second judge" in this commission, and Judge James V. Campbell, in his Political History of Michigan, is inclined to think that the commandant considered himself on all occasions as the first judge, and that, consequently, Dejean was inferior judicially to that officer, whoever he might be.

**John Burroughs, the Famous Naturalist,  
Says Wealth Brings Unhappiness.**

"The great problem of today is the making of money. It is unquestionably the occupation that engages the minds of the vast majority of people. I know millionaires and millionaires and I know very few happy ones. True, Mr. Carnegie seems to be an exception because he is different from many other rich men. He is trying to get rid of his money and he takes keen delight in doing good with it.

"But when one disposes of wealth, if there is the consciousness that in acquiring it the weaker creatures have been overcome and saddened, I think there must be a tinge of regret in helping others with this very fruit that has been obtained at such cost.

"I sat behind Jay Gould in school and once he wrote a composition on a slate for me when I needed ideas. That day he needed 70 cents and I gave the sum to him for two old school books, one a German grammar. I saw him later in life but I do not think he was happy. Why? Because there was that money fire blazing in his eye and I am sure it reached

his brain and consumed his life, sending him to an untimely grave."

**Justice Ostrander of the Supreme Court Discusses Representative Government.**

Representative government will survive if legislatures of the several states discharge with ability and with honesty the duty of making laws and if the laws are faithfully executed. First and last the survival of popular government rests with the citizen. His rights, which he is quick to assert, measure his responsibilities which are personal and continuing. In discharging his duties as a citizen he publishes his standard of proper public service. The people treated with respect the constitution which its convention framed. They will treat with equal respect laws framed by men possessing the ability to make laws. The men who framed the constitution are entitled to and have the approbation of their fellow citizens. I could wish that the great powers of state government should be exercised by those who are fit for the exercise."

#### Squibs.

Sealing wax contains no wax.

Spain has 50 Esperanto societies.

The Dutch throne has 41 possible claimants.

The linen industry of Ireland employs 70,000 persons.

Some of the moon's mountains are 36,000 feet high.

The United States consumes 80,000,000 pounds of tea annually.

The world's estimated steam power is 120,000,000 horsepower.

The Christmas candy bill of New York city is estimated at \$3,000,000.

A man can insure against loss in lotteries with a company at The Hague.

England sends great quantities of condensed milk and biscuits to China.

The death record of the railroads in New South Wales is one in seven years.

The world's demand for rubber amounts to 125,000,000 pounds annually.

Less than 1 per cent of the public has occasion to make use of the world's cables.

The water of the tropical oceans contains more salt than that of other latitudes.

There are more doctors per capita in New York city than anywhere else in this country.

Potatoes steeped in sulphuric acid and subjected to pressure make an excellent substitute for ivory in the manufacture of billiard balls.

In the past fishing season the Illinois river contributed 3,650 tons to the markets of the country. Two-thirds of the catch was carp.

About 75,000 fox skins are sold out of Maine every year. Very few of the sly animals are shot. Many are killed by the use of poisoned bait, while hundreds are killed in drives.

As the gondolas of Venice have been sup-

planted by the electric launch, so the equally picturesque windmills of Holland are falling in the face of the march of modern invention.

A committee has been formed in Denmark to erect a memorial to Mylius Erichsen, who perished with his companions in explorations in Greenland. It is expected that the memorial will take the form of a lighthouse to be erected on the Danish coast.

About 200 distinguished scientists from all parts of the world have already accepted the invitation to be present at the celebration, by the University of Cambridge, England, of the centenary of the birth of Charles Darwin and the jubilee of the publication of "The Origin of Species."

A measure is before the state legislature of Indiana providing for the enlargement of the powers of the Indiana railroad commission, so that it may have supervision over the rates charged by gas, water, telephone and city railway companies as well as other corporations serving the public.

Discussing the subject of radium and the internal heat of the earth, Prof. Joly, of the University of Dublin, says there are 20,000 tons of radium dissolved in the waters of the seas and "more than 1,000,000 tons of radium contained in the sediments which are deposited over the floor of the ocean.

The accident liability of the brakeman of the United States is greater than that of any other country. At the present time the number of employes killed annually by accident while at work is between 30,000 and 35,000. Government statistics for six years show that of 1,000,000 deaths of males, 9 per cent were due to accidents while following their vocations.

The instructions to Judge Dejean to keep his records in English were totally disregarded. He was qualified to record in both French and English, and he employed the language he was requested to use by the parties to the conveyances.

The records soon came to include transfers of real estate almost exclusively, and by the year 1769 the recording of personal transactions nearly ceased. Occasionally, however, miscellaneous papers and documents of a more general historical nature reached the hands of the judge, and were entered in his records. An instance of this nature occurs in the records of 1769. In order to understand this entry, it will be necessary to return to the year 1763, at the outbreak of the Pontiac war. One of the very first depredations committed by the Indians was the destruction of the houses on Belle Isle, and the murder of the family of Mr. James Fisher, who was residing there. After the war was over, one Jean Myer accused Alexis Cuillerier of drowning the child of Mr. Fisher on that occasion.

At the time these accusations were made there was no civil court organized at Detroit capable of trying such a case; the mutiny act had not been passed, and, moreover, the evidence was not very conclusive, and then Cuillerier was the brother of Angelique Cuillerier, who had divulged Pontiac's conspiracy to Major Gladwin, and she was the wife of James Sterling, an influential trader in the post and military storekeeper.

All of these things served to assist Cuillerier in escaping a severe punishment for his crime, and instead of sending him to Montreal for trial, or trying him in Detroit by a military tribunal, the commandant expelled him from the village, and banished him from the community. Affairs afterward took on a different aspect for Cuillerier. Several witnesses appeared and testified in his behalf, and from the testimony of some of the inhabitants "concerning the infamous character of that perjured villain, Jn. Myer, who has since given himself a very glaring and but too strong proof of said testimony by premeditatedly murdering James Hill Clark, trader at the Maumee river," Cuillerier

was declared to be found innocent of the crime charged to him, and was recalled from banishment by Captain George Turnbull, June 4, 1769. Captain Turnbull did not act in this affair until the entire facts had been laid before General Gage, and the consent of the latter had been obtained.

If Myer was accused of murder, he must have been taken to Montreal for trial, for no note of his arrest or trial occurs in connection with these records.

An entry made March 13, 1773, but dated January 22, 1773, shows one of the prerogatives retained by the commandant. It has been stated that there was no court of probate at Detroit, nor does it appear that the probate court at Montreal or Quebec had jurisdiction over this territory at that date. Of course people left estates to be disposed of, and the proper application of the assets of a decedent was a matter of interest, not only to creditors and heirs, but to the officials who had the welfare of the people in their charge.

In the estate of Mr. and Madam Chabert, both deceased, the commandant appointed Messrs. Navarre, Cicot, Lieutenant Abbott and Mr. Macomb appraisers to make an inventory of the estate for the benefit of the creditors. The warrant is in French, and the appraisers apparently understood that language. Every citizen of that day must have been able to talk with the natives in order to carry on business. The appraisers were all well known citizens. Navarre, the notary, and Zacharia Cicot, the trader, were too well known to necessitate the introduction of their first names. Lieut. Abbott was the Edward Abbott, who, at a later date, was appointed lieutenant-governor of Vincennes, one of the three lieutenant-governors appointed by the British during the revolution, the other two being Patt Sinclair, at Mackinac, and Henry Hamilton, at Detroit.

There were three men bearing the name of Macomb in Detroit at this time, John Macomb and his two sons, William and Alexander. The one mentioned here is Alexander Macomb.

The inventory was a very long one, and included every object of value about the estate. The want of courts and a

proper custodian to care for the property, induced the creditors to petition the commandant to take the matter into his hands for their protection. Their petition reads as follows:

"Detroit, 24th Jany., 1773.

We, the subscribers, being the principal creditors at this place of the late Mr. and Mrs. Chabert, on finding the above effects exposed to accidents of fire, thieves, etc., and there being no person to take care of the same, most humbly beg that you will be pleased to order them to be vendued as soon as possible, and have the moneys arising therefrom lodged in safety until you may judge proper to order a distribution to be made thereof, and with much respect.

Sir, your most obedient and humble servants,

William Edgar,  
James Sterling,  
George Meldrum,  
Andrews and Meldrum for  
Campbell & Thymis,  
Phyn, Elice and Porteous.

P. DEJEAN.

To Maj. Henry Basset,  
Commandant at Detroit."

The records of the church of Ste. Anne contain the announcement that "the noble-man Daniel Joncaire, Esquire, sieur de Chabert, lieutenant of infantry in the service of the king of France," died July 5, 1771. He was a son of the late nobleman, Thomas de Joncaire, lieutenant of infantry in a detachment of the Marine, interpreter and commandant for the King for the five nations, and of his wife, Marie Madelaine Le Gay.

The following in the Montreal Notarial Records refers to the father of Daniel: "Philippe Thomas de Joncaire, officer in the troops, and interpreter for the King in the language of the Iroquois, being about to go into the Iroquois country, appoints his wife, Marie Magdeleine Dubisson, his attorney, October 13, 1740." This is the Thomas de Joncaire mentioned above.

The wife of Daniel Joncaire was Marie Marguerite Robert de la Morandiere.

Note—The family of Chabert, or Chabert de Joncaire, or simply Joncaire, played an important part in the history of New York State and Michigan.

According to Tanguay (vol. 2, page 593) Mary Marguerite Robert died January 21, 1773. They had four children:

1. Marguerite Philippe Daniel, born 1752, married 1783 to Judith Guoin and died April 30, 1793.

2. Francois, married Marie Joseph Chesene.

3. Jacques Noel, born and died March 31, 1762.

4. Angelique Marguerite, born September 8, 1770.

Francois Chabert above named (Charles Francois Chabert de Joncaire) was elected in Detroit as a member of the General Assembly of the North West Territory in 1798. This legislature met at Cincinnati February 4, 1799, and the other members from Detroit were Solomon Sibley and Jacob Visger.

The petition for the appointment of the commissioners on the estate of Daniel Chabert, above referred to, is dated January 22, 1773, the day following the death of Madam Chabert.

In connection with the matter of the probate of wills at this early date, mention might be made of two wills that Mr. John V. Moran came across a short time ago in the family papers belonging to his father, the late Judge Charles Moran.

The first is the will of Joseph Chapoton, a youth who had reached an age when he was dependent upon his own exertions for a living-garcon emancipe d'age.\* It is dated March 7, 1761, and begins with the statement that it is made before the royal notary of Detroit and witnesses. It is not signed. It was not probated, and bears the approval of comparison several years later (1776) of P. Dejean, notary. The testator was a brother-in-law of Gabriel Legrand, and the brother of Magdelaine Chapoton, Legrand's wife.

The other will is that of Magdelaine Chapoton, wife of Gabriel Legrand, who is here described as a surgeon (chirurgien). This will is not dated.

Under Canadian law the age of majority was fixed at 25 years, but at 18, or upon marriage, letters of emancipation could be obtained. Guardians were chosen by seven of the nearest relatives, or by a number of friends. The act of guardianship should be registered. Can. Arch. 1906, page 40.



The testatrix declared she was not able to sign her name, and that the declaration is made under the ordinance of 1762.

The will is signed by two notaries, Navarre and J. Bte. Campau, and is subsequently, February 1, 1776, compared or approved by Dejean. It is not otherwise proved or probated.

The notary Navarre, in this, as in many other cases, neglects to attach his first name, laboring under the impression, perhaps that he was too important to be mistaken for any other individual.

The history of trials of the Indians has never been written and probably never will be. They were not considered of much account as human beings. Short shift of a culprit was made where there was no fear of retaliation. The record of trials is deficient, but such as can be found will be given.

The following letter is a very early one bearing on that subject:

Detroit, 18th December, 1770.\*

Dr Sir

I cannot let the express go, without informing you that my children here are all quiet, nor do I in the least doubt, that they will remain so, provided the French Vagabonds don't again stir them up—

The Provinces are very dilatory in arranging the Indian affairs; indeed it is absurd to think they will ever form a rational plan for that purpose, their interest is too divided, nor do they appear from their proceedings to know anything about the matter—their intelligence of the manners and customs of the lawyers is generally received from a parcel of traders whose ideas do not extend beyond the Circumference of a Beaver-Skin.

The Waindots complain that the French have incroached on their lands, and I believe they have some causè of discontent—I have promised them to mention it to you, & it is probable one of them will be sent in the Spring to

NOTE—It is not certain what was meant by the Ordinance of 1762. There were no ordinances enacted that year. Ordinance No. 5 post, of Sept. 20, 1764, may explain this.

NOTE—Magdelaine Chapoton was married to Gabriel Christoph Legrand, sieur de Sintre, about 1758, and died January 5, 1763.

complain to you in form—I could wish justice might be done them, for take the Indians with all their faults & I give them infinitely the preference to the rascally Race of French in this settlement—

The Indians begin to dislike the French, & if some pains was now taken to drive away the French that are amongst them, their influence would be entirely at an end—

Captain Brown writes me he has four Senecas in the Black-hole; I believe retaliation on the spot would have been much better than making them prisoners—for what law will they try them by? and who are to sit as their judges? If they are hanged, the savages will look upon it as murder in cool blood, & revenge will ensure—But perhaps Capt. Brown's *Extraordinary Understanding, Uncommon penetration & amazing command of temper* will manage the affair with such address as to do honor to himself, and answer the most salutary purposes to the publick—I beg my best respects to Mrs. John & the rest of your family—I am with real esteem Dr Sir

Your most obedient and most humble  
Servant

JAS. STEVENSON...

P. S.

Several French families have slipped away to the miamis under a pretence to trade, but I am informed they are prevailing on the Indians to grant them lands, and they propose to make a settlement there—I have sent them a positive order to desist & acquaint the Genl. of it by this opportunity—If they are allowed to go on at this rate, our back settlements will feel the effects of it whenever we have a war with France—they begin to be very disobedient & I suspect them much more than I do the Indians—

J. S.

To Sir Wm. Johnson, Bart.

There is a deed dated September 2, 1772, given by James Abbott and James Rankin, executors of William Graham, deceased, to Gregor McGregor, conveying a lot on Ste. Anne Street, in the fort of Detroit, on the corner of St. Peter Street. The deed is also executed by Elizabeth Graham, the widow of the deceased, and is in the form of modern



deeds, except that it is not acknowledged. The form of French conveyances is somewhat different.

Under the French custom, the parties all appeared before the notary, and he wrote out the agreement at their request, and all attached their signatures who could write. An explanation was made by the notary in case of illiteracy of any one or more of the parties. There were no witnesses other than the notary, and no acknowledgment was taken, as in modern conveyances. In this instance it is not stated where Abbott and Rankin were appointed executors, nor where the will was probated.

An entry dated October 27, 1772, is recorded on the 26th of the following July, whereby Israel Ruland (it is spelled Rouland in this place) bound himself to Garret Graverat until the former became of age. Ruland was born on Long Island, and was to be 16 years of age on the 2d of May. He agreed to serve Graverat until he became of age, and was then to receive £40 New York currency, and one suit of clothes fit for a servant of his station. Ruland lived in Detroit for many years, and became a citizen of considerable influence. He finally moved to Monroe, where he died.

#### POWERS OF THE JUSTICE.

The instructions to the justice, in his appointment, specified that before he should proceed to the trial of any cause, there must be arbitrators appointed to decide the points in dispute, and the contestants must agree to abide the decision of the arbitrators, and must enter into a bond containing these conditions. No instance has been found where a case was disposed of, or a dispute settled, without this arbitration, but in the case of Cabassier against Lafferte, in 1773, the records show that Lafferte refused to sign the bond that had been drawn up as preliminary to the arbitration. The dispute grew out of a marriage contract and settlement.

It has been mentioned above, that before a marriage took place between members of the old French families, a marriage contract was usually entered into between the contracting parties. This was a civil contract, wholly aside from the marriage itself, and related to

the property which the parties had at the time of the marriage, and which they might thereafter accumulate. It was somewhat like the provisions of the *coutume de Paris*.

The property that belonged to the husband and wife, both that which was theirs before marriage and that which was subsequently accumulated, should, upon the death of either, go to the survivor, upon the payment of the debts of the deceased. The survivor took in it only an estate for life. At the death of the survivor, this property passed to the children equally. It was, however, always the privilege of the survivor to refuse to take under this provision, and then the survivor could take only such property as he or she had brought into the community at the time of the marriage. The justness of this provision is quite apparent. The husband might be so heavily in debt at the time of his decease as to strip the wife of any property whatever, and it would be no more than equitable that if she gave up all the property her husband had before marriage, as well as whatever they had jointly accumulated after marriage, she could claim and hold all that which she had brought with her at the marriage.

It was a marriage contract of this nature that Lafferte had entered into, and undertook to evade. Lafferte and Cabassier were near neighbors. They both lived on St. Louis Street, in the village, and their farms adjoined each other on the Detroit river at the present Twelfth and Thirteenth streets (the Cabassier farm being now known as the Thompson farm, after David Thompson, one of the later owners). Cabassier told his troubles to the commandant, and the proper bond was drawn up, and two of the arbitrators were chosen, Medard Gamelin and A. Barthe. When it was ascertained that Lafferte refused to sign the bond, and proceed with the arbitration, the arbitrators drew up a formal notice of the fact, signed it themselves, and had it witnessed by a number of prominent citizens, J. M. Legras, John Porteous, Adhemar St. Martin, J. A. Portier, Pierre Gamelin, George McDougall, Z. Veaucheres and B. Chapoton, and put it upon the public records as evidence of bad faith on the part of

Lafferte, and as a warning to others to beware of dealing with a man who repudiated his agreements and then refused to arbitrate the matters in dispute. At this long distance it is impossible to tell what the result of this protest was, but apparently it brought the delinquent to time, for the matter does not again appear in the records, but there were other troubles that immediately grew out of the contract.

The marriage contract is too long to be given here, but in substance it is as follows: It is dated September 21, 1771. The contracting parties were Louis Veziere dit Lafferte, son of Pierre Veziere, and of Marie Ann Leclair his wife, of the one part, and Catherine L'Esprit, daughter of the late Claude L'Esprit dit Champagne, and of Angélique Bienvenue his wife, of the other part. The father of the bride being dead, her stepfather, Joseph Cabassier, represented her on this occasion. A number of the relatives and friends of both parties joined in the agreement in evidence of the good faith of the proceedings. Louis agreed to take Catherine for his wife as soon as possible, and at the request of either party. All the property they possessed should be held in common, according to the *coutume de Paris*. Neither party was holden for the debts of the other contracted before marriage. The property of Louis at this time was estimated at 10,000 livres (a livre was worth from 20 to 25 cents of our money). He gave his expectant wife 3,000 livres as "prefix dower." This sum was to be hers, if she survived her husband and had children living at that time. If there were no children, she was to have 15,000 livres, in lieu of all claims on other property. If, at the date of her husband's death, she desired to renounce the community of property, she was to take all the property she brought to the marriage, as well as all other estate that might come to her by inheritance.

The property of Catherine consisted of a farm, two and one-half arpents wide, on the north side of Detroit river, on which was a new house and orchard, and one-half of certain sites in the village. After the marriage had taken place, some question arose as to the

terms of the settlement, and Lafferte and his wife demanded a settlement of the accounts of Cabassier, as guardian for Catherine. Cabassier refused or neglected to make the accounting, and Lafferte without delay appealed his case to the commandant, Major Basset.

The entire family was now broken into factions, and a great quarrel ensued. The witnesses to the marriage contract were summoned to testify to the circumstances connected with the signing of that agreement, and to the fraud that Lafferte claimed was played upon him on that occasion by Cabassier. Major Basset finally directed Cabassier to make an inventory of all property he held belonging to his ward, and he was compelled to account for the entire amount.

There are several other instances of suits or settlements growing out of these marriage contracts.

The renunciation of the community of goods by a widow was not uncommon. One of such instances is shown in the record on August 12, 1774, where Agathe Laselle, widow of the late Hyacinthe Reaume, finding the acceptance of the community more onerous than profitable, refused to take it. The refusal was duly drawn up in the presence of the notary and witnessed by William Edgar and Jehu Hay.

In a country inhabited by peace-loving citizens, who are without laws other than their own making, the method of arbitration is the only means by which substantial justice can be done to settle all disputes. It is the primitive form of administering justice where all people are equal and mean to be honest. Another instance in this method of settling controversies occurred in November of this same year, 1773.

John Steadman, who lived at the carrying place at Niagara, was the owner of a lot situated in the barrack yard, called the citadel, in Detroit, which he sold to Alexander and William Macomb for £550. In his deed he described the land as containing 80 feet front and rear by 100 feet in depth, bounded on the east northeast by the stockade, and on the west southwest by a lot belonging to Dupéron Baby, also another lot in the village proper. After the sale was made, the purchasers ascer-

tained that the commandant, Captain George Turnbull, had taken some feet from the parcel in the citadel for the purpose of opening a public alley. Steadman was called upon to pay for the parcel taken for the alley, or the resultant damages. Without waiting for the appointment of the tribunal or formal arbitrators, Steadman himself appointed James Sterling, John Porteous and George McDougall, "or any other three impartial persons to examine what loss the said Macombs may have sustained by the want of that piece of ground," and he agreed to pay whatever the land was found to be worth.

The boundary lines of the farms were a source of many disputes. During the French regime Navarre had been the official surveyor, but after the conquest this work was done by any one who had the proper instruments. Entire satisfaction could not be obtained by this method, and complaints became so common that the commandant made an appointment of another surveyor who had the confidence of all the people. The appointment reads as follows

"By Henry Bassett Esqr., Major of his Majesty's Tenth Regiment, Commandant of Detroit and its dependencies:—

In consequence of the repeated complaints made by several of the inhabitants that their neighbours have encroached on their farms, and that they do not actually possess the quantity specified in the primitive grants, and for which they pay the Quit Rents to His Majesty, Mr. James Sterling, being an experienced and approved surveyor. I have appointed him King's Surveyor at Detroit, and for the future, his surveys only shall be looked upon as valid and decisive, and all whom it may concern are hereby ordered to conform thereto.

Given under my hand and seal at Detroit, 21st April, 1774.

Hen: Basset,

Major and Commandant."

While this commission does not, in itself, give the surveyor any judicial authority, it probably was received by the people as conferring it. Sterling was a prominent citizen in the place. He had come to Detroit as early as 1763, and perhaps even before that date. He

had married Angelique Cuillerier, a daughter of Antoine Cuillerier, one of the oldest French citizens, and his constant association with the Canadians had won him their respect and confidence. He not only understood their language, but he was interpreter between the English and the Indians. He was a trader, surveyor, collector of public revenues, and military storekeeper.

At a later date Philip Frey was appointed public surveyor.

Toward the end of 1767, Sir Guy Carleton sent a memorial to Lord Shelburn, concerning the legal situation of Canada. The memorial is quite long, and a short summary of its contents only can be given here. The people of Canada, he said, were not Britons, but Frenchmen, who were brought up under laws very different from those followed in England; that on the mutation of lands by sale, they established fines to the king instead of quit rents. Fines and dues went to the seigneur, and he was obliged to grant his lands at a very low rental. This system established subordination from the first to the lowest and preserved internal harmony until the British arrived. All this was changed in an hour, and overturned by the ordinance of 1764.\*

The laws introduced in this ordinance were unpublished and unsuited to these people, and the ordinance ought at once to be repealed.

The greatest complaint arises from the delay in hearing causes, and the heavy expense of the trials. Formerly, the King's Court sat once a week at Quebec, Montreal and Three Rivers. From these courts, an appeal could be taken to the council that sat once a week. Fees were very small, and decisions immediate. Now the council sits three times a year at Quebec and twice a year at Montreal, and has introduced all the chicanery of Westminster hall into this impoverished province. Carleton suggested the adoption of the Old Canadian laws, with such alterations as time might render advisable. A judge should reside at each of the places above named, with a Canadian assistant, to sit at least once

\*The ordinance of Sept. 17, 1764, for the establishment of courts, is probably the one referred to (No. 2 post).

a month. None of the judges or other officers of court should receive any fee, reward or present from the people, but should depend solely on a salary. Officers should be versed in the French language.

Sir Guy, to expedite matters, proposed not to await the action of parliament, but to pass an ordinance of the council of Canada, which would put in force the old French laws so far as the tenure and inheritance of land, the making of deeds, mortgages and wills, but the ordinance proposed by him was never enacted, and indeed there is no evidence that it was ever submitted to the council for action. These remarks of the governor could not apply to Detroit, though he might have thought they did, for the council controlled the province of Quebec alone, and the only cases that would come before the Quebec courts from Detroit were criminal cases under the mutiny act. His remarks regarding land tenures would not apply to Detroit, for there were never any seignorial lands at the place.

General James Murray was appointed governor over the province of Quebec December 7, 1763. He was empowered to appoint courts of judicature and justice with the advice and consent of the assembly of council, but the history of Canada does not show that Murray or his successor, Carleton, ever undertook to establish a system of judiciary in Detroit or over the western country until after 1774. The justice of the peace, who was appointed in Detroit, was commissioned by the military commandant and not by the civil authorities.

Sir Guy Carleton (afterwards Lord Dorchester) was the governor until after the outbreak of the Revolution, and during the period from 1760 until 1774 Detroit was omitted from the country supposed to be governed by any civil authority. It is very hard to determine just how the country was looked upon by the British. The village was under military authority always, and the troops stationed in the garrison were subject to the military authorities of Canada, Generals Amherst and Gage.

In a "Plan for a Code of Laws for the Province of Quebec" submitted by James Marriott in 1773, he advocated the erection of a court at Detroit be-

cause the settlers there, amounting to about 7000, were populating very fast, and extending themselves, as the people of New York were, towards each other. He said that an objection might be taken that it is not the policy to encourage back settlements, but the question seemed to be, not whether the population of the interior of North America should be encouraged in policy, for the fact was that there was and would continue to be a population there, and that where population is, the dominant power must regulate the settlers, or they would regulate themselves, probably to their prejudice.

"It is a fact which deserves attention, that for want of a good government since the conquest, the trade of furs has been but one-third of what it was under the French, as appears by the exports."

"To look into the map, the situation of Detroit sufficiently speaks the propriety of some regulation of justice there, and more especially as it is the mart and entrepot of the fur trade and the Indian commodities, such a regulation is necessary for the trade, and for preserving peace and friendship with the Indian nations resorting thither."

This was submitted in 1773, the year before the passage of the Quebec Act, and the author displays a knowledge of the Indian country and of its needs, that quite contrasts with the ignorance of Governor Carleton on the same subject.\*

In 1773, there was also laid before parliament a draft of an act for the government of Quebec, which recited a law enacted in 1745, under the French regime, designed to prevent the division of farms into small parcels by allotment between the children of a decedent land owner. This act provided that no dwelling house or stable of stone or wood should be built upon any parcel of land of less extent than an arpent and a half in front by 30 arpents in depth, or containing less than 45 French arpents (or 38 English acres). If any building was erected upon any smaller parcel, the owner should pay a fine of 100 livres equal to £4 10s), and the building should be destroyed. The English act, to attain the same ends, provided that the oldest

\*Can. Arch. 1906, 326.



son should inherit to the exclusion of all the other children.

The object of these provisions was to leave the ancestral home undivided, and compel every other member of the family to seek a new parcel of land, and thus bring more land under cultivation and prevent the people from "living in a mean, scanty and wretched manner upon small pieces of land which are hardly sufficient to maintain them."

The plan thus presented was not adopted or enacted for the government of Canada, but practically at the death of an ancestor his property was divided equally between his children.

The ancient French law was carried out in another way. Upon the death of a land owner, the ancestral home, if too small to be divided, was taken by some one of the children, who paid to his brothers and sisters, a sum equal to the share of each in the home property, and thus the ownership of that parcel was retained in the hands of one person, without division. Numerous instances of this nature could be cited, but only one, that of Jean Baptiste Beaubien, will be given here.

In this case, the ancestor, Jean Baptiste Beaubien, held a large tract of land on what are now Beaubien and St. Antoine streets in the city of Detroit. Upon his death, it was concluded that the farm was too large to be owned by one son, and so it was divided by a line running northerly from the river the entire length of the farm, three miles, and one portion allotted to Lambert Beaubien, and the other to Antoine Beaubien, two of the sons.

There were many other children in the family, and to each of these was given a sum of money or other property, by Antoine and Lambert, in satisfaction of their interests in this farm.

Another and quite usual method of preventing a division of the home at the death of the ancestor, was for one of the sons or sons-in-law to enter into an agreement with the parents or ancestors to maintain and keep them for life, upon condition that, at their death, the property would belong to those furnishing the support. There are many of these agreements on record, but the one best known, is that of the Gabriel Chene

farm. This farm was owned by Jean Baptiste Campau and when he became aged he entered into a contract with his son-in-law, Gabriel Chene, to care for him for life, and upon his death Chene was to have the farm. This land is located at the present Chene street, Detroit. There was some dispute between Chene, and the children of Campau, as to whether Chene had carried out his agreement, and the courts were appealed to, with the result that Chene's rights were fully confirmed and the complete title vested in him.\*

On May 2, 1774, Lord Dartmouth introduced in the house of lords, a bill which was passed in parliament, and is commonly known as the "Quebeck Act." During the passage of the act, Carleton was summoned before a committee of the house of parliament to testify regarding affairs in the province of Quebec, and from his testimony we ascertain how little was known in England of the geography of America.

He said that the officers of justice should proceed further into the interior of the government than they had, and he did not understand that the country as far as the Ohio, was ever under the government of Quebec. He was then asked to inform the committee whether Detroit and Michigan were under the government. He replied: "Detroit is not under the government: Michigan is under it."

There is very little inconvenience in governing them (the people of Detroit); for this reason, there were very few Europeans settled there. I do not know the settlement of Detroit very accurately. It has been established for some time. The intendant had delegates up there, but there were very little business." Detroit, he stated, was not under civil government, and Lord North, in the debates on this same subject, stated that the different military posts were, at present, without any government but that of the respective commanding officers. It is possible that this ignorance

\*The case of the Beaubien farm passed through the Michigan Supreme Court and was finally determined in the Supreme Court of the United States, while the Campau vs. Chene case appears in the decision of the Supreme Court of Michigan.



of the geography was one of the reasons why Detroit was excluded from the boundaries of the province of Quebec in the proclamation of 1763, and was consequently omitted from civil government.

One of the proposals in the draft of the ordinance of 1774 was: "6th, to abolish the use of torture, and the punishment of breaking upon the wheel."

Under the law of France, which prevailed before the Conquest, the punishment for crimes not capital, might consist of cutting out tongues, slitting noses, etc. Such punishments were contrary to the Englishman's idea of justice. There were many capital crimes at that time, but no unusual punishments or tortures were permitted by law.

Before the Quebec bill was passed, and while it was in course of preparation, the following argument was offered as one of the reasons for extending the limits of the province. Reference is first made to the boundary lines of Quebec as established under the proclamation of 1763, as given above. The writer then continues, "The king's servants were induced to confine the government of Quebec within the above limits, from an apprehension that there were no settlements of Canadian subjects or lawful possessions beyond the limits, and from a hope of being able to carry into execution a plan that was then under consideration for putting the whole of the interior to the westward of our colonies under one general control and regulation by act of parliament.

"The plan for the regulation of the interior country proved abortive, and in consequence thereof, an immense tract of very valuable land within which there are many possessions and actual colonies existing under the faith of the Treaty of Paris, has become the theater of disorder and confusion leading to causes which must affect the public tranquillity, and weaken the authority of the kingdom, whilst these colonies which exist under the faith of the treaty, remain either without the protection or the control of civil government."

This paper,\* gives a different reason for the exclusion of Detroit from the province of Quebec, from that given in 1763. It, however, agrees with a plan for

a code above mentioned, and indicates that the writer was not as ignorant of the situation of the western country as were the witnesses before the committee on the Quebec bill. Although all reference here to the religious side of the bill has been omitted; the original documents show that opposition to the Church of Rome was a leading feature in the discussions.

\*See Cavendish Debates on the Quebec Bill. Can. Arch. 1906, p. 381, and Ca. Arch. "M." 385, p. 316, among the Dartmouth Papers.

No Roman Catholic was permitted to hold office, except as he might claim that right under the Treaty of Paris, and it was feared either that the Catholics would claim that right at Detroit, if the limits of Quebec were extended to include it, or that there would be great dissatisfaction if they were not recognized.\*

"The whole difficulty lay in the religious question." (Kingsford V. 222.)

In debates on the Quebec Act, Lord North said there was only a few persons (meaning Protestants) who could be chosen for the assembly.

Mr. Dunning said that in the French war, the colonies claimed the Ohio country as belonging to them, but now, if the Quebec bill was passed (1774) and the country was retransferred to France, that country would claim to the Ohio River. (Kingsford, V. 226.)

See Parliamentary History XVIII. 1357-1406.

In the address and petition is a strong plea for Protestantism. (Kingsford, V. 230.)

In Hinsdale, Ed. 1899, 141, is the following summary of the Quebec Act:

"The policy of restriction culminated in 1774 in the Quebec Act. This Act guaranteed to the Catholic Church in the Province of Quebec, the possession of its vast property, said to equal one-fourth of old French grants; it confirmed the Catholic clergy in the rights and privileges they had enjoyed under the old regime; it set aside the provisions of the proclamation of 1763, creating representative government, and restored the French system of laws; it committed taxation to a council appointed by the crown; it abolished trial by jury in civil cases, and, finally, it extended the province on the north to Hudson Bay, and on the southwest and south, to the Ohio and Mississippi."

Hinsdale, page 150. "The proclamation of 1763 left them (the French settlers at Detroit) outside the pale of any civil jurisdiction, subject only to military authority. Nor did the Quebec Act work any real change. All through the Revolution, the commander of the Detroit garrison was the civil, as well as military head of the whole northwest, and most of his subordinates were military officers.

There were magistrates, but their commissions came from the commandant, and they dealt a very arbitrary and capricious justice. For example, Governor Hamilton adjudged a defendant, who pleaded that he could not pay a debt, to give the plaintiff an old negro wench; and Dejean, a magistrate who cut a great figure in Detroit in those days, condemned men to the gallows, whom a jury had found guilty of theft. The orderly was a more conspicuous officer of the law than the constable." Prof. Hinsdale is in error in some of his statements. Hamilton was a civil governor—he held but an inferior position in the military department. His successor, Jehu Hay, was only an ensign. It was the civil department—not the military—that committed violations of English law, that lead to the indictment of both Hamilton and Dejean for murder in the execution of the Frenchman, Coutancinau.

The Quebec act of 1774, in its preamble, recites that in the Royal Proclamation of 1763, a large extent of territory, in which were several French colonies, was left without any provision being made for the administration of civil government.

It was the intention of the present Act, to provide for the territory, and also to enlarge the district that would now be placed with the limits of the new province.

All the lands lying to the south of the Ottawa river, including not only what we now call Canada, but the states of Ohio, Indiana, Illinois, Michigan and Wisconsin, extending as far south as the Ohio river, and as far west as the Mississippi, were annexed to and made a part of the province of Quebec as it was established in 1763.

It was provided that in this new province, in all matters of controversy relative to property and civil rights, resort should be had to the ancient laws of Canada, until said laws were altered by the properly constituted authorities.\*

Any person who owned any lands or personal property, which he had a right to alienate, might devise or bequeath his property by will, to be executed either according to the laws of England or Canada.

\*This provision is referred to hereinafter in the discussion of the marriage laws.

The criminal laws of England should be employed in all criminal cases.

It was inexpedient to call an assembly, and the king was authorized to appoint a council to make ordinances for the province. This legislative council could not levy taxes except in towns or districts for making roads, repairing public buildings, and other purposes of local convenience. The council could not pass any law inflicting a punishment greater than fine or imprisonment for three months, unless the ordinance or law was approved by the King.

The Catholic religion was not tolerated in England, but in Canada, in deference to the wishes of the new subjects, and conformable to the terms of the capitulation of Montreal that religion was tolerated.

Although one might imagine from the terms of the act, that civil laws would be established at once, that was not done, and for many years, the Canadian laws were supposed to govern though, in fact, the people got along the best way they could, looking to our Judge Dejean, the military commandant and the lieutenant governor, Hamilton, for aid.

The articles of capitulation—indeed, every official paper of the period—concedes the fact that the citizens of Canada were all French and all Catholic—that they were entitled to their property and to maintain their religion.

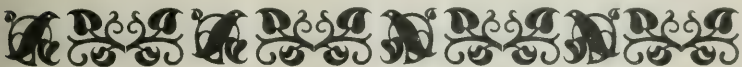
With the introduction of the new English citizens, it was hoped that the time would shortly come, when English laws might be introduced, and steps were constantly taken with that object in view.

There were no public schools, so that the Canadians could not, by means of schools be instructed in the new language. There were public records to be kept, and we have already seen that the register of Detroit, Dejean, was directed to keep them in the English language. This direction was given by a military commandant, and was not received from any written law.

(To be continued.)

"Then Jael, Heber's wife, took a nail of the tent and took a hammer in her hand and went softly unto Sisera and smote the nail into his

temples and fastened it into the ground, and Sisera, having been killed in this manner, passed from sleep unto death."



# A History of Detroit.

by CLARENCE M. BURTON.

## CHAPTER VI.

For many years, even as late as 1820—in Detroit it was no unusual matter to call juries, composed half of English-speaking jurors, and half of French-Canadians. The most important subject in parliament, concerning the government of Canada, was how to treat the new subjects fairly, and yet proceed to make Englishmen of them, without letting them know of the change. It was of great importance to England to keep the Canadians in friendly relations with that country, and not permit them to become uneasy and rebellious and join the revolting colonies.

By Detroit is meant not the present city, but the surrounding country, which, at that time was quite thickly settled, and had a population, on both sides of the river, of several hundred Canadian farmers and traders.\*

\*The population of the Detroit District in 1773, was 1,367, and in 1782, was 2,191, as will be detailed later.

Sir Guy Carleton was the first governor under the new act, and in the letter of instructions to him January 3, 1775, he was directed to establish a court of King's bench, for the trial of criminal cases, in order that more speedy justice might be administered.

He was also to divide the province into two districts, to be named Quebec

and Montreal. In each of the districts there should be a court of common pleas to determine all civil suits. In each court there should be three judges, two of whom should be natural born subjects of Great Britain, and one Canadian; also one sheriff in each district. There should also be inferior courts of criminal and civil jurisdiction, "In each of the districts of Illinois, St. Vincienne, Detroit, Missilimackinac and Gaspé, by the name of the King's bench for such district."

The judge of this court was to be an English-born subject, but he was to have a Canadian as an assistant to give advice when necessary. The judges had authority in civil and criminal cases, as had, in other places, the judges of the common pleas "excepting only that in case of treason, murder, or other capital felonies, the said judges shall have no other authority, than that of arrest and commitment to the gaols of Quebec, or of Montreal, where alone offenders in such cases, shall be tried before our chief justice."

Another provision in these instructions was, that for the purpose of maintaining peace in the Indian Country, the agents or superintendents, as also the commissioners at each post were empowered to

The councillor paused for a moment to enjoy his guest's interest and then went on.

"After his wife's death, Josias, who was now worth several thousand thalers, left us and went away to set up for himself in the district of F—. We learned later that fortune, so long sought by him, continued to smile upon him and he became burgomaster of his village. But he was never seen here in S— and he never came back to the cemetery in which lay Frau Josias.

"It was not long, moreover, before this cemetery disappeared. It was so damp there that dangerous miasmas developed, threatening the inhabitants of the neighboring houses. At first, the authorities merely ordered it to be closed, but ten years later they decided upon its total suppression and planned to run a new road directly through it.

"In the month of July the work began, and the laborers digging in the soft earth brought the first bones to the surface. One morning, just as the men were about to begin, they saw an old beggar who had made her way into the cemetery by a hole in the wall and who was picking up the wooden crosses for firewood.

"Suddenly they saw her start back, as if overwhelmed with fright, meanwhile uttering a terrified cry. They ran to question her and by gestures and broken words she made them understand that in the ground before her she had seen the head of a dead person move.

"Look, look now!" she cried.

"Every one drew back instinctively. In very fact a head was moving, stirred by no one knew what supernatural powers. One workman declared that the minister ought to be fetched. Another with more brains ran in search of the doctor. They came to tell me of it also, and I reached the cemetery just as the doctor arrived.

"The latter made merry jests at the superstitions of the laborers and, bending down, discovered a toad which had somehow made its way inside the cerebral cavity and could not get out again.

"Do you see?" he said, laughing.

"But his laughter died away. Another discovery made him silent. This was a long nail, fine as an embroidery needle, which, inserted at the base of the brain, traversed the entire head.

"'H'm!' he said. 'The murderer was a clever man! Death was instantaneous, there was no blood and, thanks to the hair, no apparent trace. My worthy predecessor probably thought death was due to a rupture of a blood vessel in the brain.'

"How are we going to know the name of the victim and the other—the murderer?" I thought anxiously. As if in answer to my question, just then one of the workmen overturned the crosses of the four graves that were in the corner of the graveyard. On one was the inscription: 'Here lies Cornelia Josias.'

"Suddenly a thought rushed through my mind, lighting up my perplexity as the lightning illumines the dark clouds of the tempest. I believed I knew the name of the murderer, but I needed proofs before I could make my knowledge known.

"I rushed home to the library, where we are sitting now. I opened a book. It was this Bible. The proof was there. I no longer doubted. I was sure.

"The next morning the police entered the house of the Josias. They found him seated at the table. The chief of police approached him, placed his finger at the base of Josias's brain and said:

"'Josias, I accuse you of murdering your wife!'

The miserable wretch trembled violently and his teeth chattered as he stammered:

"'Yes, yes! God is avenged! The book! oh! I stifle.'

"He fell dead, stricken with apoplexy.

"And now, open the Bible at the page where I opened it upon returning from the cemetery, at the page which Josias himself marked, the day before the crime. Chapter IV. of the Book of Judges, and the twenty-first verse. Read it aloud."

The lawyer took the volume and read:



act as justices of the peace. They could commit offenders in capital cases, and decide all civil cases under £10. Unless an appeal was taken, the judgment should be final and process should issue upon it. This, of course, would not permit the justice to try a capital case, as was afterwards attempted. For the purpose of working out the details of this plan, it was left to a council to draw up and enact a proper ordinance.\*

\*Detroit was no longer in the Indian Country and the laws of Montreal prevailed.

It was many years before any judge was appointed at Detroit as directed by these instructions. Carleton was directed to appoint a superintendent at Detroit, and some of the other western posts, but not to permit other settlements to be established, as they excited the enmity of the savages. According to the annual budget, the governor was permitted to pay the lieutenant-governor or superintendent at Detroit, £200 per year, but before the first lieutenant-governor of Detroit was appointed the salary was increased to £500. Purchases of lands from the Indians at Detroit and the other posts were forbidden, except in cases western posts were forbidden, except in cases where the entire Indian nation made the grant at a general meeting, and consent to the transfer was given by the entire nation.\*

\*Members of the first Council appointed by Governor Murray in 1764 were: William Gregory, Chief Justice, Paul Æmilius Irving, Hector Theophilus Cramahe, Walter Murray, Samuel Holland, Thomas Dunn, François Monnier, Adam Mabane, James Goldfrap, Benjamin Price, Charles Stewart, James Cuthbert, Thomas Mills, William Hey "in the room of William Gregory, late Chief Justice, and struck out by the Council."

Civil government in Quebec was not formally established until August 10, 1764.

William Gregory, the first Chief Justice, was appointed in 1764. He was dismissed from office, February 5, 1766, though he acted, at least in the Council, until October of that year. William Hey was appointed Chief Justice of the Province of Quebec, September 25, 1766. Mabane, one of the Judges at Montreal, is slightly referred to as a person who was ignorant of law, and had been a surgeon's mate.

The following are the names given for members of first Council under Quebec Act: Guy Carleton, Governor; Hector Theophilus Cramahe, Lieut. Gov.; the Chief Justice, Hugh Finlay, Thomas Dunn, James Cuthbert, Colin Drummond, Francis Les Vesques, Edward

Harrison, John Collins, Adam Mabane, DeLery, St. Ours, Picodyde Contrecoeur, the Secretary, George Alsopp, De La Naudiere, LaCorne St. Luc, Alexander Johnstone, Conrad Gagy, Bellestres, Rigauville, John Fraser.

There were two plans immediately proposed to be enacted as ordinances by the council on the subject of judicial system for the province. Neither plan was ever acted upon. The troubles connected with the war, prevented anything being done upon the subject, and it was not until 1777, that any law was enacted.\*

\*See Can. Arch., 1906, page 411. No session of the Council, for legislative purposes, took place before January, 1777, id. page 421.

During this interval, it would seem that Detroit, in civil matters, was subject to the laws of France—the ancient Canadian laws—but there was no attempt made to appoint officers or judges, or to hold courts under those laws. Numerous signed petitions to parliament to repeal the Quebec act, and to reinstate English laws, could not be listened to; and the English people in Quebec and Montreal became almost frantic in their efforts to make parliament attend to their expostulations.

A number of Canadian residents, including such well known names as James Finlay, Alexander Henry, J. Adhemar, Daniel Sutherland, Isaac Todd, Adam Lymburner and others, who were in London, sent an urgent petition to Lord Germain, secretary of state, asking that the Quebec act be repealed.

It will be remembered that the passage of the Quebec act was one of the acts of oppression complained of by congress as a cause for the war of the Revolution. If the thirteen colonies complained of it, how much more unjust must it have appeared to the people who were compelled to live under it.

There is one provision of the act, that is not touched upon in any of their petitions but which was, beyond doubt, one of the real reasons for the objections of English people living in Canada. That provision is the toleration of the Catholic religion. An undercurrent of religious intolerance can be detected in these petitions and remonstrances there, as it can be today in the objections to Home Rule in Ireland. The objections noted by these petitioners, were, the restoration of French law, the taking



away of the writ of habeas corpus, and of trial by jury.

They complained that the ordinances of the governor and council had tended to create dissatisfaction as they were unpublished, or if published were not understood. The laws regulating the Indian trade, were oppressive and unjust. They said "that these causes have concurred to spread a general discontent throughout the province, without any advantage to the present state, and so far to alienate the affections of his Majesty's subjects as to give great reason to apprehend a disposition in them to change their present form of government, should such an opportunity unhappily offer." Their petition was listened to, but was not acted upon. It fell upon ears that could hear, but would not.\*

The following is a synopsis of the ordinances made for the Province of Quebec by the governor and council of the said province since the establishment of civil government:\*

\*These are not all numbered in the original, and the numbers here given are for the purpose of reference only.

1. An ordinance fixing the value of currency. Passed September 14, 1764.

2. Regulating and establishing courts of judicature, justices of the peace, quarter sessions, bailiffs, and other matters relative to the distribution of justice in this province.

A superior court of judicature or court of King's bench, with power to determine all criminal and civil causes, agreeable to the laws of England. This court was to be presided over by a chief justice.

Appeals would lie to the governor and council where the matters were above £300, and from the governor and council, an appeal could be taken to the King and council where the matter was £500 or over.

Any subject of the realm was admitted to sit on the jury.

An inferior court of judicature, or court of common pleas was provided, with authority to try causes of £10 or over.

Appeals could be had to the superior court where the matter in contest was

over £20; all trials to be by jury, if demanded by either party.

Where the matter in controversy was £300 or over, the aggrieved party could appeal directly to the governor and council, and a further appeal could be had to the King and council.

The judges were to determine agreeable to equity, having regard to the laws of England.

"The French laws and customs to be allowed and admitted in all causes in this court between the natives of this province, where the cause of action arose before the first day of October, 1764.

The first process was an attachment against the body.

An execution to go against the body, lands or goods of the defendant.

Canadian advocates were allowed to practice.

Justices of the peace were to be appointed with power to determine cases where a small amount was involved; one justice where the amount was £5, and two justices for cases of £10. No appeal allowed.

Any three justices could hold a quarter session, and hear causes involving from £10 to £30 with an appeal to the superior court.

Until other officers were appointed, the warrants of the justices should be issued to the officers of the militia.

The majority of householders in each parish, were on June 24th in each year to elect six men to serve as bailiffs and sub-bailiffs in each parish; out of which number, the governor, with the consent of the council, was to appoint the bailiffs and sub-bailiffs. (It is explained in a side note, that a bailiff is a constable.)

No person shall be elected to serve a second term "except the whole parish has been served 'round."

Bailiffs are to oversee the highways and bridges, arrest criminals, act as coroners and as fence viewers. Passed September 17, 1764.

3. Declaring what is due publication of an ordinance.

The ordinances were to be printed in the Quebec Gazette and publicly read by the provost marshal or his deputy in Quebec, Montreal and Trois Rivières, after notice by beat of drum. Passed, October 3, 1764.

\*Almon's Remembrancer, 1778, page 187. The petition is dated April 2, 1778.

4. Relative to the assize of bread, and the standard of weights and measures. Passed, September 3, 1764.

5. Ratifying the decrees of the courts of justice established at Quebec, Montreal and Trois Rivieres, "prior to the establishment of civil government throughout this province, upon the tenth day of August, 1764."

This was for the purpose of ratifying the orders, decrees and judgments of the military council of Quebec between September 8, 1760, the day of the capitulation of Montreal, and the 10th day of August, 1764. Passed, September 20, 1764.

6. Quieting people in their possessions and fixing the age of maturity.

Until August 10th, next (1765), all tenures of land and rights of inheritance, according to the custom of this country, shall remain unaltered.

After January 1, 1765, the age of maturity was to be twenty-one years, agreeable to the laws of England. Under the laws of Canada the age of maturity was twenty-five years. Passed, November 6, 1764.

7. Amending ordinance No. 5 above, allowing an appeal from the decrees of the military council. Passed November 12, 1764.

8. Preventing people from leaving the province without a pass. Passed, November 6, 1764.

9. For registering grants, conveyances and other instruments in writing, concerning lands and tenements. The King, by instructions dated December 7, 1763, ordered all original grants and title papers passed from the French government before November 3, 1762, to be recorded in the proper office. It is here ordered that all persons having an interest in lands by conveyance made before November 3, 1763, shall record them with the register of the office of enrollments in this province before June 24th, next.

All subsequent deeds shall likewise be recorded before June 24th, next.

All deeds shall be acknowledged before the register, or other person qualified for that purpose, either by personal acknowledgement of the grantor, or by the oath of one or more of the subscrib-

the oath of one or more of the subscribers. 1764.

10. Ascertaining damages on protested bills of exchange. Passed, November 10, 1764.

11. Preventing the forestalling of the market. Passed, November 3, 1764.

12. Preventing the sale of rum to the Indians. Passed, November 10, 1764.

13. Regulating the rates for letting horses and carriages. Passed, November 6, 1764.

14. To prevent people from disposing of personal and real property to defraud creditors. This also annulled all judgments taken by confession on warrants of attorney. Passed, March 9, 1765.

15. Calling of juries. Passed March 9, 1765, at a session of a council held in Montreal.

16. Protecting the fishing industry. Passed May 1, 1764 (? 1765), in the 5th year of George III.

In the French copy, the year is given 1765.

17. Currency of the province. This is intended to amend No. 1 above, but it refers to an act of October 4, 1764, for regulating currency. Passed, May 15, 1765.

18. Soldiers and Seamen. Imprisoned for debt. Passed, May 31, 1765.

19. For adjourning Trinity term, and hearing the Walker case at Three Rivers. Passed, June 3, 1765.

20. For measuring firewood. Passed, November 13, 1765.

21. For regulating the furnishing of firewood, and to deprive militia officers of authority granted them before the establishment of civil law. Passed, November 27, 1765.

22. For repairing highways. Passed, March 27, 1766.

23. To amend No. 2 above. This provided that where British-born subjects only were interested in a cause, the jury should be taken from that class of citizens, and if Canadian subjects only were interested, the jury should be Canadians, but if both nationalities were interested, the jury should be equally divided between them. Passed, July 1, 1766.

24. Adjourning the inferior court of common pleas for Montreal. Passed, July 1, 1766.

25. Granting license to sell rum.

Passed, July 7, 1766.

26. Amending No. 2 above. Establishing a new term of court. Passed, July 26, 1766.\*

27. Repealing an ordinance for summoning grand and petty juries. Passed, January 27, 1766.

28. An ordinance for the administration of justice and regulating courts of law.

It recites that the act No. 2 above, giving certain powers to justices of the peace has "become an intolerable burthen to the subject, and proved the means of great disquiet, vexation and oppression." This part of the act was repealed, and justices were deprived of all authority to try causes.

Hereafter all suits involving £12 or under, are to be tried in the court of common pleas.

Persons should be appointed in each district to try causes not exceeding £3.

These persons acting as judges, were to be appointed by a commission.

No real estate should be sold on execution, unless the original judgment exceeded £12. In selling real estate on execution, the notice of the sale was directed to be published in the *Quebec Gazette* in both English and French, and the sale should take place six months after the first advertisement. The notice of sale was to be fixed on the door of the parish church, and published and declared every Sunday at the door of the church, immediately after the service, both in morning and afternoon.

No conveyance by the owner of the property made after the date of the judgment should be of any validity as against the levy and sale. Passed, February 1, 1770.

Printed in *Tracts on Canada*, 159.

29. An ordinance regulating proceedings in courts of civil judicature in the Province of Quebec. This provides for attachments against absconding debtors; for appeals from the court of common pleas to the court of appeals, and of the levy on real estate on execution.

The sheriff should make the levy, and advertise the sale three times in the

*Quebec Gazette*. The sale should take place four months after the first advertisement. Sale to be proclaimed at the church door, immediately after service, on three Sundays next preceding the sale, and a copy of the advertisement to be fixed on the door of the church.

A fraudulent debtor could be imprisoned until the judgment was paid. Passed, February 21, 1777.

Printed in *Tracts on Canada*, 172.

30. An ordinance for establishing courts of civil judicature in the Province of Montreal.

The province is divided into two districts named Quebec and Montreal.

A court of common pleas is established in each district. Suits involving less than £10 cannot be appealed. Appeals in other cases lie to the governor and council who are hereby constituted a superior court of civil jurisdiction.

Appeals would lie from the superior court to the King and council, where more than £500 was involved. Passed, February 25, 1777.\*

\*There was no session of the Council for the passage of ordinances, between the passage of the *Quebec Act* of 1774 and January, 1777.

Printed in *Tracts on Canada*, 179.

31. An ordinance for the establishing courts of criminal jurisdiction.

There shall be a supreme court of criminal justice and jurisdiction to be called the court of King's bench, for the trial of all offenses.

Two sessions shall be held at Quebec, and two at Montreal each year.

There shall also be held in each of said districts, a court of quarter sessions of the peace, to determine matters relative to the conservation of the peace, according to the laws of England.

Captains of militia are authorized to arrest any person guilty of a breach of the peace, and convey him to the commissioner of the peace. Passed, March 4, 1777.

Printed in *Tracts on Canada*, 181.

Ordinances made and passed by the governor and legislative council of the Province of Quebec.

32. Chap. V. The age of majority has heretofore been fixed at twenty-five years. This has caused great inconveniences, and the age is hereby reduced to twenty-one years "to be computed

\*The ordinances numbered above, 1 to 26 inclusive, are in one small quarto volume printed by Brown & Gilmore, near the Bishop's Palace, Quebec, MDCCLXVII.

from the day of the birth of any person." Passed, February 16, 1782.

33. Ordinance to amend and continue the ordinance passed February 25, 1777, (30). Passed February 1, 1783.

Printed in Tracts on Canada, 183.

34. This relates to accepting personal security on appeal bonds. Passed, February 5, 1783.

35. Chap. III. Granting the writ of habeas corpus. Passed April 29, 1784.

36. Chap. 1. Ordinance regulating the militia of the Province of Quebec, continuing an ordinance of 1777. Passed, April 21, 1785.

37. Chap. II. An ordinance to regulate the proceedings of the courts of civil judicature, and to establish trials by jury in actions of a commercial nature and personal wrongs to be compensated in damages. Passed, April 21, 1785.

This act was to explain the mode of administering justice in civil proceedings. The court of common pleas had jurisdiction in causes involving £10 or more, and suit could be commenced by filing a declaration and issuing a summons. Such summons could not be served without security being furnished by the plaintiff, where the defendant was in the "Upper Country," that is, in any place beyond the Long Sault, on the Ohio river, or beyond Oswegatche (Ogdensburg) on the St. Lawrence.

A jury to try causes should consist of twelve persons, but "the agreement of nine of the twelve jurors, who shall compose said jury, shall be sufficient and effectual to return a verdict."

If the cause was between natural-born subjects of Great Britain, the jury should be composed of natural-born subjects. If the cause was between Canadians, the jury should be Canadians, and if between natural-born subjects and Canadians, the jury should be half Canadians, and half natural-born subjects.

The right to a jury trial could be waived.

Either party feeling aggrieved, could appeal to the court of appeals; executions could issue for the collection of judgments and the sheriff could levy upon real estate to satisfy the same. When personal property was seized, the sheriff should cause the seizure to be

published at the church door of the parish immediately after divine service, on the first Sunday succeeding the seizure, and such notice should contain the date of the sale.

When lands were seized, the sheriff was to advertise the sale in the Quebec Gazette, to take place four months after the first advertisement.

Proclamation of the sale was also to be made at the church door of the parish in which the lands were located immediately after divine service on three Sundays preceding the sale, and a copy of the advertisement, was to be fixed on the door of the parish church.

Persons having claims against the lands, must give notice of their claims to the sheriff, either before or after the sale, "and to remove all doubts the sale then by the sheriff without any other formality, shall have the same force and effect as the decret had heretofore."

Suits for amounts under £10, could be commenced in the same court, by summons, but the sheriff could levy on personal property only, to satisfy any judgment obtained.

There were some exemption from seizure, but the only absolute exemptions were the beds and bedding of the defendant.

The judges might require the debt to be levied by installments.

Fraudulent debtors could be imprisoned until the execution was paid.

This act (of forty sections) was to be in force for two years.

38. Chap. III. Ordinance concerning surveyors and measurements of land. Passed, April 30, 1785.\*

39. Chap. IV. Concerning advocates, attorneys, solicitors and notaries. Passed, April 30, 1785.\*

This contained a provision that notaries must send an abstract of every deed, mortgage or other paper executed before them, to the receiver general.

40. Chap. V. An ordinance granting limited powers to justices of the peace. Passed, April 30, 1785. Repealed 34. George III.\*

This allowed justices to try causes where the amount claimed exceeded 2s. 6d., and not more than 40s.

Any two justices jointly could try

causes involving sums over 40s., and under £5.

Personal property only could be taken on execution on a judgment so rendered.

11. Chap. VI. To prevent exportation of unmerchantable flour.\* Passed, April 30, 1785.

42. Chap. VII. Fee bill, continuing an ordinance of March 9, 1780.\* Passed, April 30, 1785.

43. Chap. VIII. Regulations for police in towns of Quebec and Montreal. Continuing an ordinance of April 23, 1777.\* Passed April 30, 1785.

44. Chap. I. Regulation of militia in the Province of Quebec, continuing an ordinance of March 9, 1777.\* Passed, February 20, 1786.

45. Chap. II. Fee bill continuing an ordinance of March 9, 1780.\* Passed, February 20, 1786.

46. Chap. III. Ordinance regulating the keeping of horses and carriages for hire, continuing an ordinance of March 9, 1780.\* Passed February 20, 1786.

47. Chap. I. Granting appeals and providing for drawing of juries.\* Passed, February 27, 1787.

48. Chap. II. Regulating the militia in the Province of Quebec.\* Passed, April 23, 1787.

49. Chap. III. Quartering of troops.\* Passed, April 23, 1787.

50. Chap. IV. Regulating proceedings in civil courts.

This in to continue in force the ordinance of April 25, 1785 (No. 36).<sup>\*</sup> Passed, April 27, 1787.

51. Chap. V. Regulating the police in the towns of Quebec and Montreal.\* Passed, April 30, 1787.

52. Chap. VI. To amend the ordinance concerning courts of criminal jurisdiction (No. 31).<sup>\*</sup> Passed, April 30, 1787.

Captains and other officers of militia in the parishes of the province, and the serjeants named by the said captains,

and other officers in the parishes are hereby declared to be public peace officers.

53. Chap. VII. Fee bill. Continuation of the former fee bill.\* Passed, April 30, 1787.

54. Chap. VIII. Importation of tobacco.\* Passed, April 30, 1787.

55. Chap. IX. Repairing highways and bridges.\* Passed, April 30, 1787.

56. Chap. X. Regulating charges for hiring horses and carriages, and to continue the ordinance of March 9, 1780.\* Passed April 30, 1787.

57. Chap. XI. Concerning advocates, attorneys and solicitors; amending the act of 1785 (No. 38). Passed, April 30, 1787.

58. Chap. XII. Building court houses and jails in Quebec and Montreal.\* Passed, April 30, 1787.

59. An act to continue the ordinances regulating the practice of law, especially applicable to the new districts.

This is copied from the Quebec Gazette of May 7, 1789.

The "Act" continues the previous ordinances in operation in the district of Hesse, and other new districts, until April 30, 1791.

Printed in Tracts on Canada, 204.

60. Another ordinance was passed April 11, 1789, relating to the records in the upper country.

All of these ordinances are printed in both English and French.

None of those passed before 1774 were operative in Detroit at the time of their passage, but such of them as were still in force and applicable and were not repealed by the Quebec act became operative there after May 1, 1775.

It appears from the above list, that at least twenty-seven ordinances were passed by January 27, 1776. There must have been a good many more between the latter date and 1774.

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The above ordinances 32 and 34 to 46 inclusive, are in a small quarto volume printed in Quebec by William Brown, in Mountain Street. MDCCCLXXXVI.

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\*The ordinances from 47 to 58 inclusive are in a small quarto volume printed at Quebec by William Brown in Mountain Street, MDCCCLXXXVII.



# A History of Detroit.

by CLARENCE M. BURTON.

## CHAPTER VII.

The Quebec act had the effect to nullify the ordinances unless the council made some other provision. So many of the ordinances have been lost, or are inaccessible that it cannot readily be told whether such an enabling ordinance was passed or not nor when it was passed, if at all. We have none between 1770 and 1777.\*

\*Three small quarto volumes of these ordinances were printed at the time, and a few others can be found in Tracts on Canada and in the Gazette.

### *Banks and Banking.*

We have already seen that there was no bank at Detroit, and that the more extensive traders performed the work of bankers for their customers, but this plan did not supply the place of banks of issue. There was always a dearth of bills, paper money, specie and fractional currency. Hard money could not be obtained in sufficient quantities to properly carry on business, and some of the merchants issued personal bills to aid the storekeepers.

The commandant, on one occasion at least, issued a number of these bills that passed for money for some time. When the bills came in from their use, they were redeemed and destroyed. There are several items in old account books at this, and later periods, showing that these bills were so taken care of. In the archives at Washington, some of their paper money can be found, never issued, but prepared for issuing during the war of the Revolution, and under an earlier date, September 17, 1774. In our records, this entry is made:

"Received from James Sterling, Esq., 43 pounds 8 shillings New York Currency, in Major Henry Bassett's current bills, which I have burnt in presence of the said James Sterling, con-

formable to Major Henry Bassett's instructions.

Bills, one at 112/.....	£ 5	12s
Bills, two at 100/.....	10	
Bills, six at 60/.....	18	
Bills, nine at 20/.....	9	
Bills, two at 8/.....	16s	

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Total .....	£13	8s
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R. B. LERNOULT,

Capt. Comman't at the Detroit."

### *Mortgages and Their Foreclosure.*

It was for a long time a difficult matter for me to determine how, in the absence of courts, of lawyers, and of civil officers, debts secured by mortgages could be collected. Two cases occur in the year 1774, which indicate the method that was employed at that time. Perhaps the plan was not legal, but if it was not, it was certainly practical in these instances.

The first case was that of a mortgage by Charles Andre Barthe to Rankin and Edgar, on a piece of land on the border of Lake St. Clair, in Grosse Pointe. The second case was another mortgage made by Charles Andre Barthe to Daniel Campbell, a merchant of Schenectady, and to Messrs. Rankin and Edgar, merchants of Detroit, on a farm now known as the Brush farm, then described as being two arpents\* front by eighty arpents deep, bounded on the east by lands of Jean Baptiste Beaubien, and on the west by the *Domaine du Roy*, (the common). Default having been made in the payment of these mortgages, Phillipe

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\*There is nothing to show why or for what purpose these bills were issued, but as the commandant was not engaged in trade, they were very likely issued to defray expenses of the post and were paid from the collection of taxes.

the Bowles-Dicksons, and the Collingwoods.

He (airily): Why not the Dorleys?

She: The Dorleys! Of course, if you want paint and powder, Mrs. Dorley's the one.

He: Oh, come, she's not as bad as all that. I thought she'd cheer it up a bit, that's all.

She: Yes, she's just the sort of woman that twists all you men round her little finger. You're all as blind as a bat, and you're the battiest of the lot.

He (with a suspicion of jaunty devilry): Didst think me blind when—

She: A luid interval. No, Charles, I was the blind one then. However, I have your Dorleys. Only, if you do, I'll have Captain Okes and his sister.

He (loudly): No, no.

She (insistently): Yes, yes. Captain Okes has a bold, free, irresistible way with him, and even if Mary Okes has turned forty she's a pattern

of all the girlish virtues.

He: Let's toss.

She: Right. (He produces a coin and tosses.)

She: Heads!

He: Tails it is. (He pauses.) I choose the Okeses.

She (loudly aside): He has a noble heart after all. (To him): You shall have the Dorleys, too. It shall never be said—

He: I don't want the Dorleys now.

She: And I don't want the Okeses.

He (resignedly): Let's have the lot.

She: All right. That makes twelve with ourselves. Now come up and see baby.

He: But hadn't you better get the invitations off? There's not too much time left, you know.

She (with sweetness and dignity): My dear Charles, what do you take me for? I sent all the invitations out yesterday.

He: Well I'm—  
(Curtain.)



#### Only Favoritism Wanted.

George Gould spoke of railway difficulties at a recent board meeting.

"A railway finds it impossible, by being just, to please all hands," Mr. Gould concluded. "There is truth in the story of the commuter who entered a railway superintendent's office, with a black frown.

"Well, what next?" the superintendent said to the man impatiently. "By our new time table don't three additional trains stop at your station now?"

"Yes," growled the commuter, "but they stop at all the other little stations, too!"

Dejean, justice of the peace, sold both parcels at public auction to Jean Askin, the first parcel bringing £100 New York currency, and the latter bringing £255.

As an evidence that the sales were considered perfectly legal and valid, one only needs to know that the last described parcel of land has, since the date of that sale, remained in the possession and ownership of Askin and his descendants to the present day.

A daughter of John Askin became the wife of Elijah Brush; who was the father of Edmund A. Brush, and the son of the latter was the late Alfred E. Brush, and a grand-daughter is Mrs. Frelinghuysen of New York. As Mr. Barthe was the father of Mrs. John Askin, we have a parcel of land, the title of which has remained in one family for six successive generations.

An earlier case, under the French regime, of a proceeding similar to a foreclosure, occurred in 1748. Hyacinth Reaume and Agathe LaSalle, his wife, were the owners of a farm of eighty arpents which was mortgaged to Robert Leserre. Reaume also owed various other debts which he was unable to pay. He petitioned the French commandant, Joseph Lemoine, sieur de Longueuil, for permission to sell the property, and the latter ordered the notary, Navarre, to proceed with a sale, and devote the proceeds to paying the mortgage first, and then the other debts of Reaume. The proclamation of sale was made during four different days in all the streets of the fort, by St. Sauveur, the drummer of the garrison. The first proclamation was made on Monday after Pentecost, June 3, 1748; the second on Tuesday, the second feast of Pentecost, June 4, and continued on Wednesday, the fifth day of the same month, and put off till Sunday, June 9, on which day, the farm was sold by order of the commandant, to Claude L'Esprit dit Champagne, for 1,006 livres. This sale cannot be deemed a foreclosure, for it was made at the request of the owners, and not at the instance of the mortgagee. The deed

of conveyance is signed by the royal notary, Navarre, and is approved by the commandant, but is not signed by the Reaumes, nor is it witnessed.\*

#### *Public Apology.*

It would be interesting to know the reasons why a public apology should become necessary from one of Detroit's foremost citizens to the Notary Dejean, that was made in October, 1774. Perhaps a showing of disrespect to the "judge" was considered a contempt of court that was only to be condoned by a fine, or this apology. No matter what the cause, or reason, the public records contain the interesting document:

Detroit, 21st October, 1774.

Sir: I confessed to have used you very ill in presence of the committee and several other merchants on the night of the nineteenth instant, by several rash and unbecoming aspersions, for which I am very sorry, and which I hope you will be so good as to forgive, as it was entirely the effect of liquor, whereof I had drank too freely.

I am, sir,

Your most obdt. and humble servant,  
George Meldrum.

To Philip Dejean, Esqr.:

One of the interesting items contained in these old records, is to be found in volume A, on page 262. It reads as follows:

"This day personally appeared before me, Henry Basset, major of the Tenth regiment, commanding Detroit, etc., Philip Dejean (acting) as justice of the peace for said place who made oath on the holy evangelist of Almighty God, that one, Basile Favro, declared before me that he had himself murdered one St. Amour, his bourgeois; he further declared that he did not use any violence or torture to get that confession from said Basile Favro.

\*These people, Hyacinth Reaume and his wife, Agathe La Salle, have been referred to before. A peculiarity to be noted is that the wife did not take her husband's name at marriage. Among the old French and Canadians the wife retained her maiden name. Another peculiarity is that the Detroit district was never under the Julian Calendar. In that district time was always regulated by the Gregorian Calendar. It is one of the few places in the present United States where no change was made in 1751.

\*An arpent, used as a measure of land, was equal to 192.75 feet English measure, and in speaking of an arpent, a parcel of land having that measurement on each of its four sides was meant.

"Sworn before me this 21st day of December, 1773. P. Dejean.

"Henry Bassett, major commandant."

The details of this crime can no longer be determined, nor can it be ascertained whether any trial was had, nor where it was conducted, if one was granted. The most important item of information to be obtained from the record is, that torture of some kind was resorted to in order to obtain confessions in some instances, and that this method was unlawful. The name of Favro does not occur in the list of Detroit citizens, but that of St. Amour is frequently found. Apparently in this case, the examination of the culprit was taken before the commandant, and the result put in the form of an affidavit for use in some higher court, but recorded in this office for safe keeping on the 6th of July, 1774.

It will be noticed that the crime was committed while Detroit was in the Indian country, so that the trial should have taken place at Quebec, under the mutiny act.

#### *Crimes and Their Prevention.*

If crimes and misdemeanors could not legally be punished by the court at Detroit, they could be prevented if opportunity for legal interference was given, and we find an instance of this kind in August, 1774.

Thomas Dagg was accused by John Shipboy, of threatening to commit an assault upon him and thereupon was had proceedings similar to the present "bond to keep the peace." Shipboy appeared before Dejean, and made oath to the threat of Dagg, and on the succeeding day, August 21, 1774, Dagg was summoned before the justice to give his version of the affair. There was no trial. Dagg denied that he ever made the threats, and took an oath that he would never commit any assault upon Shipboy in the future. Dagg had been a member of the Tenth regiment, but had terminated his service, so that he was no longer amenable to military orders.

There are a few other similar cases, that can be given in this connection.

Francois Millehomme and John Peck (or Picke) had a quarrel in which the

latter was stabbed. No criminal proceedings were begun, or at least none appear of record. A civil action for damages only, was undertaken. Upon seeking the assistance of the justice, arbitrators were chosen to settle the difference, and award damages, as required by the terms of Dejean's appointment. The result entered in the old records at page 300, is as follows:

"Whereas, Messrs. Sterling, Baby, Porteus and Chapoton were nominated and appointed arbitrators to determine between John Peck and Francois Millehomme, for the said Millehomme having stabbed the said Peck with a knife in the stomach, said arbitrators not agreeing in their award, William Edgar being chosen umpire, is of the following opinion, to which the aforesaid Sterling, Baby, Porteous and Chapoton have agreed, that said Francois Millehomme to pay unto the said John Peck, sixty pounds (New York currency) and give such security for his future behavior as the commandant may think proper.

Detroit, 25th March 1775. P. DEJEAN,  
J. P.

WILLIAM EDGAR,  
JAMES STERLING,  
D. BABY,  
JOHN PORTEOUS,  
B. CHAPOTON.

In order to carry out the award, and to be released from jail, where he then was, Millehomme gave a bond for good behavior in the future.

His bondsman was Antoine Mini, and the amount of the bond was £100 sterling. The condition was that Millehomme should not for a year and a day from date make any attack on the said Picke, or on any of the subjects of his majesty, George III, King of Great Britain. The witnesses to the bond were Joseph Pouget and William Brown. A similar bond was exacted from Etienne Livernois for having committed an assault upon Gregor McGregor. The bondsman was Joseph Pouget. Perhaps Pouget was a professional bondsman.

Pierre Delorrier and Charles Levert gave such a bond in behalf of a man named Bertrand for an assault upon Mr. Hanin. This bond, unlike the others, is not signed, and is more in the nature of a recognizance.

*Punishment for Crimes.*

Violations of rules of the commanding officer could be punished by that officer after military court-martial if the culprit was a soldier, but in case he was a civilian other means had to be resorted to. It is likely that an Englishman would desire to be tried by a jury, even though the punishment, if one was to be meted out to him, was directed by the commandant. There is a case of disobedience of the rules and regulations of the commanding officer by one Jacob Adams (the register spells his name Adhams) in 1775. Adams, on being brought before the justice, pleaded guilty to the charge, or was convicted, (the record does not indicate which), and gave a bond for future good behavior in the sum of £100, with James Rankin and Collin Andrews, as sureties.

*A Whisky Trust.*

One of the oddest business agreements ever seen in connection with the colonial history of Detroit, was entered into by the merchants, in 1774. There had been continual complaints of the injuries resulting from the sale of liquor to the Indians. The complaints had been of long standing, both under French and British rule, and attempts to curb or prevent the traffic were continually being made, with little success. The effort that I am about to relate, was new, so far as the people were concerned, but the idea had been promulgated three-quarters of a century earlier by Cadillac. The effort at this time was the result of a feeling on the part of the traders that this traffic was injurious to their business interests, and not because of anything immoral in the sale of rum. The agreement is self-explanatory, and so interesting, that is it will be given entire:

"WHEREAS, We, the subscribers, finding the selling of rum or other spirituous liquors among the Indians at their settlements detrimental to trade, and dangerous to the subjects, do hereby oblige ourselves, to conform to the following regulations:

1. In order the better to regulate the sale of rum to the savages, and to confine it entirely to the fort, we hereby agree to establish a general rum store in this fort, for which purpose we promise

to deliver into said store, an equal proportion of rum and kegs necessary for that purpose, which store shall be regulated by a committee hereafter named and appointed for that intent.

2. None of us, the concerned in this agreement, shall, under any pretense whatever, sell, vend or barter with any Indian or Indians, male or female, any rum or other spirituous liquors for any commodity whatsoever, which shall be brought for sale by said Indians; but every kind of skins, furs, trinkets, sugar, grease or tallow; in short everything the savages may bring to market to dispose of for rum, the same shall be bought at the general store only, it being our true intent and meaning that no Indian or squaw, shall receive directly or indirectly, either by present or otherwise, in any of our houses, more than one small glass of rum at any time during the continuance of our said general store, and that no skins or furs whatsoever shall be exchanged with Indians on any pretense.

3. That we will not vend or sell any spirituous liquors whatsoever to any person or persons intending to retail, or otherwise dispose of the same to savages of any nation whatsoever, neither will we on our own proper account send or carry any rum or spirituous liquors among any tribe or nation of Indians with an intent to vend the same to said Indians.

4. We further oblige ourselves, not to vend or dispose of rum or spirituous liquors to any person or persons residing or sojourning among the savages, or to any person concerned in traffick with them in any wise whatsoever, unless the persons who purchase those liquors shall first bind him or themselves under oath, properly taken before the commanding officer, or some other magistrate, not to dispose of, vend or sell by retail or otherwise the said liquors to savages, or to any person intending to sell the same to savages.

5. And to prevent strangers or others not immediately bound by this agreement from reaping advantages to the detriment of the subscribers by conveying rum or other spirituous liquors among the savages, in order there to sell the same, we do hereby agree that



should it so happen that any person or persons shall send rum to trade among the savages, that we will send immediately to the place a sufficient cargo on our joint account, that the concerned in this agreement may reap equal benefit with those who may not join them in their good intention of confining the trade of rum to the fort.

6. That James Sterling, James Abbott, Alexander Macomb and John Porteous be hereby constituted and appointed a committee to regulate and transact all affairs for the mutual concerns of the subscribers, having hereby full authority to act as such, and to assemble and advise with all the members upon receiving notice of anything material regarding the concerned, who shall likewise regulate the accounts, sales, transactions and rotation of serving or attending the general store.

7. We also hereby bind ourselves and our heirs and executors severally to the whole subscribers in the penal sum of three hundred pounds lawful money of the province of New York, which penal sum of three hundred pounds aforesaid, we bind and oblige ourselves, our heirs and executors, to pay or cause to be paid to the said subscribers for every offense or break of the aforesaid or subsequent articles, and for the better and more steady execution of this article we likewise bind and oblige ourselves to have all differences that may arise decided by the award of four different arbitrators mutually chosen, who upon their disagreeing, are hereby empowered to choose a fifth person as an umpire, whose award we oblige ourselves to abide by; we also hereby give and grant full power and authority to the committee to seize or distrain the property of offenders in execution of the said award that no unnecessary delays may be caused thereby, hereby warranting and defending them for such proceedings against our heirs and assigns for any consequences therefrom arising. We further agree that the above articles shall be equally binding in every respect, as if drawn up agreeable to all the forms of law necessary in such cases.

8. We further agree that the above-mentioned articles and obligations shall take place and commence from and after

the first day of May next ensuing the date hereof, and shall continue of full force so long as may be thought proper to be kept up by the majority of the subscribers, not to exceed the term of two years from the commencement hereof unless mutually agreed upon.

9. We also hereby oblige ourselves to give every information we can possibly procure at all times to the committee of every occurrence regarding the general concern.

In witness whereof we have hereunto set our hands and seals at Detroit, this fourteenth day of April, in the fourteenth year of the reign of our sovereign Lord George the third of Great Britain, France and Ireland, king, etc., etc. In the year of our Lord, one thousand seven hundred and seventy-four.

Signed and sealed in the presence of

DOOTY GRAVES,  
WILLIAM FORSYTH,  
NORBERT VISGAR,  
MCWILLIAMS & Co.  
COLLIN ANDREWS,  
JOHN PORTEOUS,  
FOR SELF & Co.,  
GREGOR MCGREGOR,  
JAMES STERLING,  
SIMON MCTAVISH,  
A. MCCOMB,  
JAS. THOMPSON,  
J. M. S. THOMPSON,  
ABBOTT & FINCHLEY,  
WILLIAM EDGAR,  
JAMES RANKIN,  
GERRIT GRAVERAT,  
J. VISGAR,  
GEORGE McBEATH,  
JAS. COCHRAN,  
NORMAN McLEOD,  
D. VAN ALLEN.

The agreement which was understood to hold for two years, was not found to be profitable, and was dissolved in the following year (June 12, 1775), when the parties acknowledged receipt of their shares of the community property, and divided it among them.

A few other names were added to the original list, which appear in the dissolution. Some of the partnerships had been terminated also, so that the following are the names that now appeared upon the record:

ABBOTT & FINCHLEY,  
 JAMES STERLING,  
 WILLIAM EDGAR,  
 GREGOR MCGREGOR,  
 JAMES COCHRAN,  
 CHARLES MARTIN,  
 JOHN PORTEUS & Co.,  
 GERRIT TELLER,  
 MCTAVISH & BENNARMAN,  
 GEORGE MCBEATH,  
 JAMES RANKIN,  
 RYNIER VAN YEVERRAN,  
 MCWILLIAMS & TRUMBLY,  
 OBEDIAH ROBINS  
 For JAMES THOMPSON,  
 A. & W. MACOMB,  
 ANDREWS & Co.,  
 JOHN MARTIN,  
 D. VAN ALLEN,  
 WILLIAM STERLING.

*Hamilton and Dejean.*

• When Henry Hamilton became lieutenant governor of Detroit, he was a captain in the British army, and had held that position for several years. He was, like all other army officers, imbued with the importance of the military department, and the utter inferiority of the civilians. His life was among the soldiers, and although he was the civil and not the military head of the post, his associations among the traders and business men of the community, was only with what might be termed the better class. He made few friends while here, and left few behind him when he went to Illinois. We are not interested here, in the conduct of the war, and will not undertake to decide whether or not, Hamilton bought scalps, either with or without the approval of his government. To the citizens who were under him from the date of his appointment, he was overbearing and supercilious. Dejean understood his character thoroughly, and while he was willing to act in the same strain towards the poor mortals who were compelled to attend his court, he always walked meekly in the footsteps of his master. There were a number of people in the town who were never so intimately connected with the army as to lose their individuality, and these men rebelled against the haughty ruling of the governor and his judge.

Hamilton had been in charge since 1775, and had become familiar with the

proceedings of Dejean, and understood his character.

The first Legislative Council of the enlarged province of Quebec, met in January, 1777. Nothing was done at the beginning, regarding the government of the remote posts. Carleton told Hamilton that the times would not then admit of any regulations being made for the distant or remote situations. "The power of the sword is chiefly and indeed only to be trusted to." He also informed Hamilton that he had included him in a "Commission of the Peace for the Province at large, and in that capacity you have a right to issue your warrants for apprehending and sending down any person guilty of criminal offenses in the district, at least such as are of consequence enough to deserve taking that journey, but these must be signed by you, and not by Mr. Dejean, whose authority is unknown here, and at the same time that you acquaint the officer commanding at Montreal, with your reasons for so doing, you will likewise report the same to me, or whoever presides for the time being."\*

It will be seen from this, how limited were the powers of the lieutenant governor in civil affairs, and yet his authority exceeded that of Dejean, whose authority was unknown at Quebec.

Hamilton's egotism increased as the confidence was reposed in him, and during the summer of 1777, he conducted affairs more strenuously than ever. The people were incensed at the action of the judge and governor in the Eller and Coutencinau cases, hereinafter referred to, but the little personal annoyances of individual liberty increased as time proceeded. Perhaps some allowance should be made Hamilton because of the situation and the times. He had charge of the war department in the west. The Indian department was under his control, and the Indian leaders were as reckless and desperate a lot of partisan leaders as any war ever produced. They were such men as Henry Bird, Simon Girty, George Girty, Alexander McKee, Matthew Elliott, John Butler, Joseph Brant, William Caldwell and others

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\*Letters of Carleton to Hamilton February 2, 1777, in Mich. His. Soc. IX. 345.

whose names are written in blood on the pages of the history of Wyoming, Cherry Valley, Blue Licks, Ruddles Station, Boonesbury, Sandusky, the burning of Crawford, and the thousand nameless massacres of the revolution.

As no provision had been made by the Council for the civil government of the upper posts, it was understood that there were no valid commissions outstanding in the Indian country. There were none before the passage of the Quebec Act, and no attempt had been made to issue any after that act took effect.

On this subject Carleton wrote to Hamilton: "As neither the civil or military officers of your settlement can be properly authorized to act in their several capacities without commissions from the governor or commander-in-chief of the province, you will take the first opportunity of transmitting here their names, that they may be furnished with the same as soon as possible." Carleton asked also that names be sent to him for the position of judge, assessor and sheriff in the district of Detroit. He promised that at the next session of the Legislative Council something should be done towards regulating the course of civil proceedings in the remote parts.\*

A few days after this letter, but before it was received by Hamilton, a citizen of Detroit, who was at Quebec, gave a detailed and interesting account of the life led by the people under the lieutenant-governor. This statement\* was sent to London, and in a short time appeared in one of the leading periodicals of that city. The following is a copy of that report:

"Quebec, September 21, 1777.

Sir:

Yesterday, his Excellency, Sir Guy, was pleased to sign my pass a few hours before he set out for Montreal, notwithstanding any opposition that might have been made by our Detroit Nero, Lieutenant-Governor Hamilton, who, you know, is now in town here. From what you have heard of his cruel and tyrannical disposition, you must be well con-

vinced how unhappy we are under his government; you know what severity he used against me unjustly, how he had treated Mr. Bentley, and confessed to him in presence of several witnesses that he knew very well his proceedings against Mr. Bentley were illegal, but that he was above the law; and added, 'You may sue me if you please, but you will get nothing. Government is obliged to support me in what I do,' a very fine confession for a lieutenant-governor set over a free people. You know how he wanted to hurt Mr. Isaac Williams, and the cruel manner in which he treated Mr. Jonas Schindler, silversmith, who, after being honorably acquitted by a very respectable jury, he ordered to be drummed out of town. Captain Lord of the 18th regiment, late commandant at the Illinois, and at that time commanding the garrison at Detroit, silenced the drum, when it entered into the citadel in order to pass out of the west gate with the prisoner, and said Lieutenant-Governor Hamilton might exercise what acts of cruelty and oppression he pleased in the town, but that he would suffer none in the citadel, and would take care to make such proceedings known to some of the first men in England; all these things are very cruel, but nothing like hanging men. Lieutenant-Governor Hamilton, to whom a commission for justice of the peace was sent up only two or three months ago, which was the first that was ever given by proper authority to anyone in Detroit, took upon him in the fall, 1775, to nominate and appoint a certain Philip Dejean (who ran away from hence, some time ago, and fled to Detroit, to screen himself from his creditors) to act as judge on the trial of Joseph Hecker (formerly a furrier in this town) for having killed his brother-in-law, Monsieur Moran, in a quarrel; he was found guilty, and Dejean passed sentence of death upon him, which was approved of by Governor Hamilton, and put in execution a few days after, under a guard of soldiers, who surrounded the gallows whilst he was hanged. In the spring of 1776, they condemned and hanged also John

\*The writer of this statement was doubtless James Sterling.

\*Letter, Carleton to Hamilton, September 15, 1777, in Mich. His. Soc. IX. 359.

\*From Almon's Remembrancer, 1778, page 188.

Coutancinau, a Canadian, for having stolen some money, etc., from his master and being concerned with a Negro woman in attempting to set fire to his master's house. You will readily allow that these criminals deserved death, but how dared Lieutenant-Governor Hamilton, and an infamous judge of his own making, take upon themselves to try them, and execute them without authority? I mentioned all the above circumstances to Judge Livius, and to Mr. Monk (the Attorney-General); they were much surprised at such rash and unwarranted proceedings, and said that Lieutenant-Governor Hamilton and his judge, Philip Dejean, were both liable to be prosecuted or murder.—I beg you to make those things known in England, that we may be freed from usurpation, tyranny and oppression.

I return you my most hearty and sincere thanks for your very polite and obliging behaviour to me since I came to this town, and your interesting yourself in such a friendly manner in my behalf with his Excellency, Sir Guy Carleton, whereof I beg you may be assured I shall always retain the most grateful sense, and am, with much truth and sincerity, dear sir,

Your much obliged and most humble servant."

The following is a report of the proceedings in Detroit printed with the preceding letter:

Proceedings of a Court held at Detroit, the 8th of August, 1777, by Philip Dejean, one of his Majesty's Justices of the Peace, acting as judge by commission from Henry Hamilton, Esq., Lieutenant-Governor and Superintendent of Detroit, etc., to try an action of felony between our Sovereign Lord the King

and Jonas Schindler, silversmith, for uttering base metal mixed with silver, contrary to the Act made and provided to prevent frauds of the like nature.

The prisoner was set to the bar, and commanded to hold up his hand.

Judge.—Jonas Schindler, you stand indicted for felony in having made, sold and offered for sale, base metal, mixed with silver. Are you guilty of the crime of which you are indicted, or not guilty?

Prisoner.—Not guilty.

Mr. James Rankin and Mr. John Shipboy being called upon to be ready to give in their evidence, the jury were then called by their names, and sworn.

"You good men of the jury are to understand that the prisoner at the bar stands indicted for felony, in having made, sold, and offered for sale, base metal mixed with silver; to which indictment he pleads not guilty. And now hear your evidence."

James Rankin, being called upon as an evidence for our Lord the King, declares upon oath that he has bought some Indian silver work of the prisoner at the bar, for Mr. Edgar, at the River Huron, and in particular some boxes, which being returned by the Indians, who said they were the same they bought of said Edgar, said Mr. Edgar returned them to said evidence, who then applied to the prisoner at the bar concerning said boxes, who said he had not made them himself, but had bought them of one Mr. Beaubien, and that if they proved to be base metal, he would make him new ones, take them back again, or else deduct them out of the account; said prisoner told said evidence that the boxes cost him five livres, ten sols each, and said evidence agreed to pay him six livres each.

(To be continued.)





# A Night of Pleasure.

by ROBERT PAIN

It was half-past six at night when she came down from the work-rooms and out onto the street. She was an intensely anæmic girl, neatly dressed, thin, tired. Given better health, she would not have been unattractive; given a better way of life, she would have had better health.

A gentleman of forty-five crossed the street towards her, raised his hat, and said, "You're late to-night."

She took absolutely no notice, and slightly quickened her pace.

"Please do not hurry," he said. "I have so much to say to you." Then she turned round on him and was very furious. If he bothered her any more she would hand him over to the police.

"Pray don't misunderstand me," said the gentleman plaintively; "I would not insult you or treat you with anything but the greatest respect on any account."

"Then what on earth do you want?" she said rather irritably.

"I will put it as briefly as I can. I happen to be very wealthy. I can enjoy nothing—the day for that has gone past for me. I wish for one night to see somebody else enjoy something. It had to be somebody who did not usually spend money freely; somebody who worked hard; somebody who had refinement and education. I thought, and I still think, that I have found all these things in you. Will you come with me? Dinner, a theater or a music-hall, a little supper at the Carlton, and then my brougham shall drive you home. You will be rendering me the greatest possible service."

She was a girl that was quite used to taking care of herself. If she had not much confidence in him, she had great confidence in herself. She could, at any rate, test it, and abandon the experiment when it pleased her.

"But," she said, "I have no proper dress for that kind of thing."

"You know what the proper dress would be?"

"Of course I do. It's my business."

"Very well, then, the rest is simple. You will go immediately and get all that you require in that way—dress, gloves, everything. Do not think about money, merely exercise the excellent taste which you show in your present costume. If the dress gives you the least pleasure, I know that it will give me much more. I shall be your debtor."

"It is like a fairy tale," she said.

"My brougham is here, and at your service."

The electric brougham slid noiselessly up to them. They got in.

In the brougham she watched him nervously, sideways. Yes, he was forty-five. His dark hair was gray on the temples; there was a melancholy cruelty in his thin-lipped mouth; but the greenish eyes, strong and searching, were not the eyes of one who had out-lived himself.

"I can't understand," she said. "What do you mean? You can't enjoy anything?"

"Almost that. I am, unfortunately, one who must have novelty. There are many women to whom I have given pretty toys and suppers at the Carlton. That—well, that was another affair. This is quite different. To-night I give for no other motive than to bring enjoyment to you. You see? I shall enjoy it second-hand. Tell me all about the dress."

She laughed. "Oh! you wouldn't understand if I did. I am going to Lambert's. One of the ladies there is a great friend of mine. Lucky that I am stock size, isn't it?"

"Very," said the man with enthusiasm. He had not the faintest notion what stock size meant.



# A History of Detroit.

by CLARENCE M. BURTON.



## CHAPTER X.

Every stranger, and every suspected citizen, was watched and his actions and sayings were reported to the governor. If the suspicions seemed to be well founded, the suspect was brought before Hamilton and he was put under bonds to behave himself as a British citizen.

It was not an uncommon circumstance that persons were unjustly suspected. On the 29th day of December, 1775, Gerat Graverat was brought before Hamilton, and compelled to enter into a bond in the sum of £400 sterling, conditioned that he would not correspond with, carry intelligence to, or supply any of his majesty's enemies, nor do anything detrimental to this settlement in particular, or against any of his majesty's good subjects for one year and one day. The sureties on the bond were William Edgar, George McBeath, James Rankin and Simon McTavish. No better list of names could be selected from the business directory of Detroit of that day.

It seems very probable that Graverat was entirely misjudged at the time, for he remained a British subject at Detroit as long as it was under British control. He married the daughter of Jacob Harsen, of Harsen's Island. Their descendants are well known in Detroit.

Philip Boyle was compelled to give a similar bond on March 6, 1777.

In volume "B" of the old records, on page 23, is an evidence of an attempt of Dejean to perform the duties of a probate judge. It seems that in 1769, Alexis Chapoton made his will in the presence of the judge and of Nicholas Perot; that subsequently, Chapoton went to New Orleans, "which is situated on the river more than ten leagues below Natches," and there died. His will was opened in the presence of Pierre St.

Cosme and Jean Baptiste Campau, and was admitted as a valid will by Judge Dejean, at the request of Jean Baptiste Chapoton, 29 January, 1777.

### Articles of Employment.

John Simon bound himself to work for Obediah Robins one year, from October 31, 1776, for £24, New York currency (about \$60). Simon was to work as a hired man, and "is to behave himself, and honestly and severally obey every lawful command, and is to go with said Obediah Robins, wherever he shall direct him, or wherever his business requires."

Robins was an extensive trader and his name is frequently found in the old records. Besides carrying on business at Detroit, he was also interested at Sandusky and Mackinac.

In February, 1778, Governor Hamilton seized goods belonging to James Abbott and another trader that were being sent to Sandusky without a permit. The goods were sold and applied to satisfy a fine of two hundred dollars for each of the traders.

Abbott appealed to William Grant, attorney-general, and he decided against Hamilton.

The opinion of the attorney-general was not satisfactory to Hamilton and he sent the case to General Haldimand and continued to enforce his rules on the traders as before.\*

\*Hamilton to Haldimand, Sept., 1778, in Mich. His. Soc., IX, 468.

### Troubles of Trying to Live Without Courts.

In the absence of courts all kinds of schemes were devised to avoid the complications that arose.

In 1775, one Francois Millehomme, a minor, had a farm at Grosse Pointe, which had come to him by inheritance. His father, Francois Petit dit Millehomme—his mother, Catherine Miny, being dead—wished to dispose of the farm for the good of the son. He found a purchaser in William Brown, and the father executed a deed of the place to Brown. In order to insure the validity of the transaction, an approval of the sale was drawn up and signed by all the relatives of the young man, and the approval was recorded with the deed. The names of the parties signing the approval are as follows: Antoine Mini, Gazetan; Seguin dit Laderoute, Joseph Miny, an uncle; Jean Baptiste Cuillierier Beaubien, a cousin; Pierre St. Cosme, cousin; Claude Gouin, a friend; Augustin Lafoye, a cousin german; Antoine Miny, an uncle. It would seem that the relatives and friends thus became guarantors of the transaction, and thus possibly were obliged to see that the avails of the sale were used for the benefit of the minor. No authority of any court, or approval of the commandant is attached to the deed, or referred to in it.\*

\*This sale might have taken place agreeable to the laws of Canada, mentioned above, where the guardian for a minor was appointed by the relatives or friends.

### ARBITRATIONS.

Arbitrations could be resorted to in order to settle pending differences without the aid of the justice. Such a case occurred in 1777 between James Cassety, a farmer, and Edward Abbott, lieutenant-governor for Post Vincennes. Cassety was a well-known character in later years, but at this time he had but recently come to Detroit and settled upon a farm at Grosse Pointe. He was the owner of a lot in the village, which he sold to Abbott. Upon examining the title to this lot, Abbott ascertained that Cassety had purchased it from John Witherhead and Henry Van Schaack and had received warranty deeds, but that Mrs. Bainbouts claimed a dower interest in the lot. Thomas Williams, James Sterling, Gregor McGregor and Duperon Baby were chosen arbitrators, without seeking the approval of Dejean.

The arbitrators decided that Abbott should retain £30 in his hands until the title to the land was perfected.

This is the first claim for dower in real estate in the post, and a search of the records discloses very few instances in which the wife joined in the conveyance of lands by the husband, though in many French deeds there are recitals that the conveyance is made with the approval of the wife.

This is not the first time mention is made of Thomas Williams in the records, but it is the first occasion that it has been used in these notes. Mr. Williams was a citizen of Albany, New York, he came to Detroit some time before the war as a trader, but remained here, either because he sided with the British, or because he wished to avoid taking part in the conflict. He became a prominent citizen and held several positions of trust. His property at Albany was confiscated by the state of New York, but was finally restored to him or his family. He married Cecelia, a sister of Joseph Campau, the first millionaire of Michigan. Williams had three children. The only son, the descendant best known to the citizens of Detroit, was John R. Williams, who, in 1824, became the first elected mayor of our city.

Gregor McGregor was a prominent citizen, and was appointed sheriff toward the end of the British rule.

From a report made in 1768, it appears that in 1750, the fort was about half the size it had attained in 1778. The inhabitants then (in 1750) were each obliged to furnish one picket for each foot of ground they possessed in front within the fort, and pay annually two sols per foot, quit rent to the crown. This tax was too burdensome for the people to bear, and the king remitted the obligation to furnish the pickets, and the expense of repairing the pallsades was borne by the crown. The other tax was continued until the surrender to the English, "since which time the service has required such taxes of us that they have been almost unsupportable." Captain Campbell, the first English commandant, levied a tax for lodging the troops, and besides this compelled each farmer to furnish a cord of wood per

acre in front. The second year the troops were again quartered and the farmers paid double the quantity of wood that they did the previous year.

The third year, Colonel Gladwin continued the same taxes.

The next year the entire tax within the fort was £184, 13s, 4d, and the following it amounted to £158.

In 1765 a committee consisting of Messrs. Baby and Chapoton was appointed to investigate the tax levy, and lieutenant Colonel John Campbell, the commandant assured them that the tax should be the same as under the French.

The farmers paid a quit rent of 2s, 8d, and one-fourth of a bushel of wheat per acre in front.

This year (1768) the taxes were increased to one shilling per foot for lots in the fort and ten shillings per acre for farms. The people are unable to pay this heavy tax.

The citizens, lot owners in the fortifications, met for the purpose of discussing the needs of the place. They were sensible of the necessity of keeping the picket line in repair and they must bear the expense of the work. It was needed for protection, and the only safeguard they had against the savages. Thirty-three of these proprietors chose Messrs. Baby, St. Cosme, Sterling and Thomas Williams as a committee to buy pickets and have them planted, and to make such other repairs as they deemed necessary, and the proprietors agreed to pay the expense of this work according to their possessions.\*

The following is a statement of the king's rights and revenues at the Detroit, and conditions on which lots were granted in the town and lands in the settlement in the time of the French.

The commander was empowered by the governor of Canada, to grant, in the king's name, lots within the fort on condition of making the necessary works for enclosing the fort without any charge to the king, and on condition of paying two sols on account of rent for every foot in front towards the street, and a fine of alienation whenever any person sold or exchanged his house and

lot of ground, which fine was the twelfth of the value, when exchanges were made.

The commander also granted lands in the country, on condition that the inhabitants paid quit rents and fines of alienation; for each acre land in front, one sol quit rent, and forty sols rent, with one-quarter of a bushel of wheat per year, which makes, for a grant of four acres of land in front (the usual quantity given in each grant) eight livres, four sols and a bushel of wheat per year.\*

When the fines were paid readily the king of France remitted one-third of the fine, so that the purchaser paid eight parts only instead of twelve, and the same rule was observed respecting the exchange of inheritances.

When the last happened, whether in town or country, the estates exchanged were estimated by experienced people appointed for the purpose, and both the contracting parties paid the fines according to the estimation made of both estates so exchanged with each other.

A livre was equivalent to a modern franc, twenty cents, and a sol was one-twentieth of a livre.

The casual and territorial revenues within the province are appropriated, by his majesty's orders, to defray the expenses of the civil establishment of the same.\*

When the matter of taxes was agitating the community. Mr. Francois Duchesne had his old tax receipts recorded, which show what taxes he had paid, under both the French and English government. His farm was two arpents in width, and later there was another farm of the same size, owned by his son bearing the same name, on which he paid the taxes. About 1756 they exchanged farms with Joseph La Feuillade, and an additional tax of 25 livres was levied for that reason.

The annual tax or rent was levied for the uses of local government, like keeping the fortifications in repair. This tax

\*Canadian Arch. Series B 27, page 291. Extract from a report sent from Detroit, February 5, 1774.

†Letter of Haldimand to George Rose, November 3, 1784. Series B. 39, page 222.

\*See Sketches of Detroit, by Robert E. Roberts.

was practically uniform for the years 1742, 1743, 1745, 1746, 1747, 1757 and 1759 as shown by the receipts.

It amounted annually to one-half minot (bushel) of wheat and four livres, two sols for each farm of two arpents width.

In 1759 he owned six arpents of land on which he paid taxes.

The last year of French rule he paid fifty livres, equal to ten dollars. This was during the war, and many have included extra work on the fort. In 1762 under the British rule he paid twenty-four cords of wood, delivered in the barracks yard.

In 1767 Duchesne paid three pounds, New York currency, "for tax to defray the lodgings of his majesty's troops."

Reckoning a livre at twenty cents, and a pound at two dollars and fifty cents, under French rule, he was paying per year, one bushel of wheat and about one dollar and seventy cents in money, while under the English he was paying seven dollars and fifty cents for quartering troops and an additional sum for the fortifications.\*

A tax receipt:\* "Received, Detroit, Feb. 28, 1773, of Badisshorn Labodie, three bushels (minots) of wheat and 24 livres, 12 sols in money in consideration of the permission given him to cultivate a farm 4 arpents in width, by 40 in depth, within the village of the Poutewatemis, and another of 4 arpents in width by 80 in depth at the old village of the Ottawas; all for one year ensuing the 11th of November last.

By order of Major Henry Basset,  
Commandant,  
James Sterling."

The following tax roll for the village of Detroit, made by James Sterling, acting receiver general for 1771, gives the names of owners of all the property subject to taxation within the fortification.\*

Names of Proprietors & Possessors of Lots of Ground within the Fort & Lots of Ground within the Fort & Town

\*From the old records.

\*Translation of an original document in Vol. 1, page 7 (Burton Library).

\*The original roll is in the collection of Mr. Henry R. Howland of Buffalo, N. Y.

of Detroit, with Measurement of their Lots in Front in Rear, Subject to an Annual Quit-Rent of two sols per foot in front due the 22d March, 1771.

Proprietors' Names.	No. Lots.	Feet in Front.	Feet in Rear.	Total Feet.
Duperon Baby .....	1	70		116
John Stedman .....	2	46		
James Cassey .....	1	27	27	132
Hyacinth Reaume .....	1	31		31
.....	1	74		
.....	2	27		101
Sampson Fleming .....	1	30		30
Alexander Macomb .....	1	31		31
Nicolas Stevens .....	1	30	20	50
Jacob Lansing .....	1	40	40	80
William Maxwell .....	1	30	30	
.....	2	55	55	170
Widdow Cecire .....	1	50	50	100
John Robison .....	1	46	46	92
James Abbott .....	1	42	42	
.....	2	48	48	180
John Wetherhead & Co. ....	1	32		
.....	2	102	102	
.....	3	52	52	340
Jean Baptist Berge (ditt—San Chagrin) .....	1	85	85	170
Pierre La Bute Sen. ....	1	62	62	124
Renkin & Edgar .....	1	69	69	
.....	2	40		178
Widdow Desruisseaux .....	1	59	59	118
Collin Andrews .....	1	19	32	51
Lieut. Jehu Hay .....	1	30		
.....	2	46	46	122
Samuel Tyms .....	1	45	45	
.....	2	70		160
Louison Campau .....	1	55	55	110
James Sterling .....	1	30	30	
.....	2	42		
.....	3	81		
.....	4	41		224
Joseph Poupate Labouze .....	1	70		70
Dominique Labroce .....	1	55		
.....	2	30		85
Felix Graham .....	1	26		26
Cpts. Grant and Robison .....	3	168		168
Thomas Cox .....	1	91		91
Lieut. George McDougall .....	1	56		56
Joseph Cabacier .....	1	96		
.....	2	50		146
Pierre St. Cosme .....	1	54		54
Nicolas Lascelle .....	1	48	48	
.....	2	42		138
Jean Vauchare, dit Lajeunesse ..	1	40		40
Augustin Lafoy .....	1	28	28	56
Widdow Belpetche .....	1	34	34	68
Theophilo Lomie .....	1	30	30	60
J. Baptist Rœour .....	1	45	45	90
Gilbau & Gobeey .....	1	32	32	64
Doctor George Anthon .....	1	72		
.....	2	42		114
Lafferty & Peange .....	1	42		42
Baptist Reaume .....	1	44		44
Joseph Reaume .....	1	68		68
Charles Reaume .....	1	40		40
Charles Campau .....	1	38		38
Charles Lallou .....	1	42		42
Fr. La Duke dit Percie .....	1	40		40
Piesque Cote .....	1	40		40
Lieut. D. Brehm .....	3	116		116

Total ..... 69 3349 1212 4561

QUIT RENT AT 2 SOLS PER FOOT.

Livres. Sols. £ s. d.

456 2 30 8 1½

The total tax levied on the village property for 1771, was 456 livres, 2 sols —£30 8s 1½ d. The farm lands were nearly all owned by Canadians, and the exceptions are as follows:

Extract from a copy of account of Cash & Wheat received from the Farm-



ers at Detroit for Quit Rents due to the Crown agreeable to the tenor of their Deeds for One Year ending the 11th November, 1770, at the Rate of Forty-one Sols in Money & a Quarter of a Bushel of Wheat for each Arpent or Acre in front which hath forty acres deep.\*

## NORTH SIDE OF THE RIVER.

Owners' Names.	Acres		Bushels		
	Front.	Deep.	Wheat.	Livres.	Sols.
Doctor George Anthon..	4	80	2	16	8
James Sterling from Pierre Tremblai .....	3	40	34	6	3
Sterling & Gouin, the Presqu' isle .....	9	40	214	18	9
James Sterling from Costacrau .....	3	40	34	6	3
Jas. Sterling from Louis De Hitre .....	3	40	34	6	3

\*The names of the Canadian farm owners are omitted.

No farm lands located on the southerly (Canadian) side of the river were owned by the English.

The taxes on farm lands for quit rents due to the crown, agreeable to the tenor of their deeds, were 41 sols in money and a quarter of a bushel of wheat for each arpent or acre in front by forty acres in depth.

The total tax on farm lands was 906 livres, 12 sols, 3 denier, and the total tax for the year was 1362 livres, 14 sols, 3 denier, or, at the estimate of 15 livres to the pound, a little more than £90.

Sketches of Detroit, By Roberts.\*

James May, the old-time justice of the peace, and judge of the Court of Common Pleas, came to Detroit in 1778, and in after years gave the following description of the village as it was at the time of his arrival.

It extended from Griswold Street to Wayne Street, and from the river back to the alley north of Jefferson Avenue. It was surrounded by oak and cedar pickets, about 15 feet long. The town had four gates, east, west, north and south, and over the first three of these there were block houses. Each block house had four guns, six pounders. There were four streets running east and west. The main street was twenty feet wide, and the others were each fifteen feet. There were three cross streets running north and south from ten to fifteen feet wide. At that time there was no fort, but there was a

citadel near the northwest corner of Jefferson Avenue and Wayne Street. The town pump was at this place. The citadel was picketed in, and within it were the barracks of wood, two stories high, sufficiently large for ten offices, and for three hundred or four hundred men. A provision store built of brick, a hospital and a guard house were in the citadel.

In the town in 1778 there were about sixty houses, mostly one-story, though some were a story and a half high; none of them were two stories. They were all of logs, some hewn and some round. There was one building called the king's palace, two stories high, situated near the east gate (corner of Jefferson Avenue and Griswold Street).

Attached to this house was a large garden, extending toward the river, containing many fruit trees. This house was built for Governor Henry Hamilton, and he lived there in 1778. There were in 1778 four companies of the Eighth regiment, two companies of the Butler Rangers, and one company of the Fourth regiment, about 500 troops in all. There was a guard-house near the west gate, and another near the governor's house. All gates were shut at sunset, and the wicker gates were shut at 9 o'clock regularly and the keys given to the commanding officer. They were opened at sunrise. No Indian was permitted to enter a town carrying a weapon, and no more than twenty-five were ever permitted to enter at once. At sunset the drum beat and the Indians left at once.

The council house was at the water's edge, near the governor's house. There was a Catholic church about the middle of the block between Griswold and Shelby Streets, on the northerly side of Jefferson Avenue, and the priest's house and burying ground adjoined it. The church was 60 by 40 feet, one story high, with two steeples and two bells. There were sixty families, with two hundred males and one hundred females. There were 30 Scotchmen, four Englishmen and 15 Irishmen. There were two justices of the peace; Thomas Williams and the goevrnor or commanding officer.

\*This little pamphlet is rarely met with nowadays.



They could pay cases under £10. In cases above that amount the parties had to go to Montreal. Small debts were collected by the commandant by summary process. He heard the case, decided it at once, and ordered the defendant to pay, or he sent him to the guard house until he complied. There were no proceedings or costs. If the defendant had no property he was discharged.

In 1779 the governor established a court of trustees with jurisdiction extending to £10 Halifax.

Eighteen trustees entered into a bond that three of them should hold weekly court in rotation, and that they would defend any appeal that might be taken to Montreal.

The court lasted eighteen months and there were no appeals. It was considered as a court of conscience. They had certain forms of process, rendered judgment, and issued executions. They had a constable and clerk and imprisoned in the guard house.

The above description by Judge May is exceedingly interesting, but there are some matters in it that are not exactly correct, and the inaccuracy is doubtless due to the fact that it was written many years after the events transacted, and when the judge was an old man.

Dejean was the prominent judge or justice until he left Detroit in the fall of 1778.

Williams did not become a justice until after Dejean left. Hamilton was the governor or (lieutenant-governor) and continued to hold that office for some time after he left in October, 1778. Lernoult was the military commandant in 1778, and continued to occupy that position until he was relieved by DePeyster in the fall of 1779. There was no governor at Detroit from the time Hamilton left in 1778, to be captured by General Clark, until the arrival of Jehu Hay in 1784. The court of conscience was not appointed by the governor, but by DePeyster or by Lernoult. This court is probably the one mentioned by Robertson hereinafter described. It was a court of arbitration.

Judge May underestimated the num-

ber of English residents before 1778. The following list is not complete, but it is much larger than that indicated by Mr. May. Names do not indicate nationality clearly enough to distinguish between English, Scotch and Irish; but in this long list of English names, it would seem that there were more than four that came from England proper.

Perhaps it would be improper to include Dr. Anthon in the list, for he was a German, and Robert Bayard, George Croghan, George Turnbull and some others were in the army, and some had left the village before the date given.

James May,	John Farrell,
James Abbott,	Thomas Barber,
James Rankin,	H. Van Schaack,
George McBeath,	Richard McNeal,
George Christian	Jacob Lansing,
Anthon,	Samuel Kennedy,
James Sterling,	Alexander Mercer,
Collin Andrews,	George Meldrum,
Thomas Williams,	Robert McWilliams,
William Edgar,	Stephen Linch,
John Robison,	John Dodge,
William Sterling,	Lachlan MacIntosh,
John Edgar,	Edward Mumford,
Robert Bayard,	George Turnbull,
George Croghan,	Henry Hamilton,
Samuel Tyms,	John Porteous,
John Steadman,	Henry Bassett,
David Edgar,	James Stevenson,
Hugh Mitchell,	Israel Ruland,
George Knaggs,	Garret Graverat,
Edward Pollard,	John Visger,
James Cassety,	George McDougall,
Benjamin James,	Jehu Hay,
Allan McDougall,	Alexander Maconib,
Richard B. Lernoult,	William Macomb,
John Shipboy,	John Macomb,
Thomas Dagg,	William Brown,
John Peck,	Jacob Adams,
Hanin,	Gregor McGregor,
William Forsyth,	James Thompson,
Simon McTavish,	Charles Martin,
Thomas Finchley,	Norman McLeod,
James Cochran,	Gerrit Teller,
D. VanAlen,	John Martin,
Obediah Robins,	Samuel Williams
John Simon,	(Lieut. 17th. Reg.)
Isaac Williams,	John Askin,
Sampson Fleming,	William Fleming.

## FUGITIVE SLAVES.

An entry dated May 6, 1778, signed by Henry Hamilton, lieutenant-governor and superintendent, reads, translated, as follows: "On the representations which have been made by the mulatto woman, who belonged to the late Louis Verat, and on the verbal depositions of different persons, concerning the liberty of the said mulatto woman, I have judged proper to stop the sale of the woman, and have directed that she be sent back to Kaskaskia, in the Illinois country, consigned to Mr. Rochblave, commandant for the king at that place, for further information."

This was either a case of abduction of a slave and an attempt to sell her at Detroit, or the return of a fugitive slave. It is the first recorded instance of a fugitive from slavery, to be followed by the thousands of others, increasing each year in number until the civil war ended the curse of serfdom.

## REAL ESTATE TITLES.

In 1778; a question was raised regarding the title to one of the parcels of land within the fortifications, and in the course of the investigations, the history of the lot was quite fully gone into. It appeared that one lot on St. Jacques Street, 30 feet front by 65 feet deep, bounded on one side by Laurent Parent, and on the other by St. Germain street, and in the rear by St. Joseph Street, was sold by Nicolas LaSalle, representing Jacques LaSalle, Jr., October 20, 1747, to Nicolas Vernet dit Bourguignon, and that another parcel on Ste. Anne Street, 30 feet front by 54 feet deep, bounded on the northeast side by the guard house, and on the west by a new street called St. Germain street, and extending to St. Jacques Street, was sold by Mr. Dequin-dre to said Vernet on the same day. On each of said lots were buildings erected—log houses, "built log on log," as the deed describes them. From the founding of the village, the log houses were built of logs set on end in the ground placed close together, and the interstices filled

with mud or clay. The newer buildings were built of logs laid upon each other lengthwise, as in the pioneer log houses of our own knowledge. It became appropriate for the conveyancer, Navarre, to indicate what class of buildings were on the lots here conveyed, and he described each building as "une maison de piece sur piece."

The two parcels were sold by Vernet, October 19, 1760, to Francois Picote de Belestre for 30,000 livres. Belestre was the last French commandant, and upon the surrender of Detroit to Major Robert Rogers in 1760, he was hurried off to Presqu' isle with the French soldiers as a prisoner of war, and the property he left was taken possession of by the British.

When the title to these parcels of land was questioned in 1767 the then commandant, Captain George Turnbull, appointed a court of inquiry to examine the title.

The members of the court were Lieutenant Daniel McAlpine, of the Sixty-eighth regiment (president), and Lieutenant John Cristry, of the Sixtieth regiment, and John Amiel, ensign in the Sixtieth regiment (member).

Belestre claimed to own the property under the deed to him, and the commandant claimed that Belestre took the conveyance for the benefit of his government, and that with the fall of New France all government property passed to the British.

Belestre testified that he bought both parcels of land for himself, and that he paid the taxes on them and the king's dues amounting to 666 livres, 6 sols, on the purchase of the property. One of the lots taken by the soldiers was within the citadel. The other lot had been in possession of his Britannic majesty for some years. The court was apparently prejudiced in favor of the king, and it is small wonder that Belestre, the poor Frenchman, got little satisfaction out of his suit.\*

\*One of these buildings was used as a jail and will be referred to hereafter. General Gage declared every grant made by Belestre in 1760 to be void (Mich. His. Soc. X. 245).

(To be continued.)

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# History of Detroit and the Great Lake States

## An Authoritative Record of Early Events in Canada and the Great Lake Region.

by C. M. BURTON.

Affairs had come to such a pass for want of laws and courts at Detroit, that the council at Quebec took up the matter and appointed a committee of merchants at Montreal to investigate the matter, and report a system of procedure. This committee, in its report, stated that Detroit and the upper posts were indebted to Montreal more than £300,000 sterling, and that these posts should be kept possession of by government, "for if they were given up, a great proportion of that large sum would be lost, to the hurt of the nation and to the ruin of numberless individuals."

They proposed that Detroit and Mackinac should be erected into a separate district, and that a court of civil jurisdiction should be established, to be called the court of Common Pleas. There should be one judge, whose decision should be final for all matters in dispute under £50, but in all other matters, an appeal should lie to the court at Montreal. Appeals should be in the form of a new trial. Depositions of witnesses at a distance could be taken to be used at such trial. The judge should reside at Detroit, but he should go once a year, say in May, to Mackinac, and there remain until July 25, to hear all cases brought before him in which the amount involved did not exceed £100. The property of fraudulent debtors could be seized on attachment, and only released on security being given to abide the final decision of the court.

As a further reason for the establishment of Detroit as a separate district, the committee stated that "Detroit is become a settlement, both of great extent and great consequence. It annually fits out a vast trade to the interior posts circumjacent to it, at which, in the course of carrying on, disputes and differences invariably arise, to determine which, for want

of a judicial power on the spot, they are obliged to have resort to the courts of Montreal." They estimated that between the date of sending for a summons from Detroit, as the commencement of a suit, fully six months would elapse before the defendant could be properly served, and in this time could dispose of his property and leave the settlement. Not less than 40 suits a year, all above £10, were instituted by persons residing at Detroit against others of the same place, and not above one-fourth of that number are successfully carried forward, owing to the great delay in serving process. "We believe a judge there would have no less than 300 or 400 causes a year to determine." "For their present state they have no means to enforce payment from their debtors, it is on their honor and honesty they must rely—a sorry dependence in a country where there is neither a power to check or restrain the most dissolute and licentious morals."

### Proclamation of 1788.

It was in response to this report that the council authorized the formation of a new judicial district, to include Detroit, which was established by Lord Dorchester by his proclamation dated July 24, 1788, and called Hesse.

By the same proclamation the district of Nassau was organized. This district was bounded on the west by a north and south line intersecting the extreme projection of Long Point in Lake Erie and the district of Hesse "comprised all the residue of the province in the western inland parts thereof, of the entire breadth thereof, from the southerly to the northerly boundary of the same." The uncertainty in fixing the western limit of the district of Hesse, was so planned as to include Detroit and the lands lying west of the great lakes without mentioning

them by name. These western lands formed a part of the new United States, and any open assertion of ownership by Great Britain would have irritated the people of this country, and probably would have reopened the war just closed.

On the same day, Dorchester appointed the following as justices of the Court of Common Pleas: Duperon Baby, Alexander McKee, and William Robertson.

He at the same time appointed eight justices of the peace—Alexander Grant, Guillaume LaMotte, St. Martin Adhemar, William Macomb, Joncaire de Chabert, Alexander Maisenville, William Caldwell, and Mathew Elliot. The appointed sheriff was Gregor McGregor; the clerk was Thomas Smith, and the coroner, George Meldrum.

Every one of these names is familiar to all who have read our early history. The list is about equally divided between the Canadians and English. Of the list, William Macomb, Joncaire de Chabert and George Meldrum alone remained on the American side of the river during their lives, after the British occupancy ceased. Macomb died a few weeks before the exodus in 1796. St. Martin removed to Vincennes; Smith remained here many years. As clerk of the court he kept the public records of Detroit for some time. He became a surveyor, and acted in that capacity in the planning of the city after 1805, but he eventually went to Canada, and died in Windsor. All of the others left Michigan, and all of them lived along the south shore of the River Detroit, in Canada. No sooner had the news of the appointments reached Detroit than there was a popular uprising in opposition to this action of the government. A public indignation meeting was called, and a long protest drawn up, signed by the English residents. The opposition was not because of the individuals named as judges, but because they were not understood to be qualified to properly fill the office. Two of the judges-elect, Robertson and Baby, per-

sonally accompanied the protest to Quebec, and Robertson read it in the council chamber in that city on October 24, 1788.

### The Protest.

This protest so closely follows the line of argument contained in the memorial of the Montreal committee, as to lead one to suppose they were drawn up by the same hand. The remonstrance states that the people of Detroit are "seized with an infinite alarm for the security of their properties, under an arrangement which they see pregnant of the most destructive consequences."

"The inhabitants of this corner of his majesty's dominions, have long felt the hardships and expense of being obliged to resort to courts distant many hundreds of miles, for the obtaining payment of just debts, which in many cases become so burdensome that the trouble, expense and uncertainty of recovery was nearly equivalent to a denial of justice." They did not object to the character of their fellow citizens chosen to be judges, but two of them (Robertson and Baby) were so extensively engaged in trade that they would be personally interested in nine out of every ten cases brought before them. "The professions of judge and merchant combined in the same person are wholly incompatible." They objected also to the want of professional abilities of the whole bench.

They objected to the justices of the peace because they were illiterate. If permanent judges could not be obtained, who would devote their entire time to the office, and be paid a salary sufficient to maintain them, it was proposed that "a court of arbitration, composed of a number of justices of the peace, with intelligent merchants and inhabitants," be formed. This court could be divided into classes so that, without inconvenience, they could sit weekly or monthly in rotation, and could be vested with powers to compel the attendance of witnesses, and to carry their judgments into execution. "There is local experience to enable us to decide here upon the utility of an institution nearly similar."\*

Some old records recently brought to light, indicate that Hector T. Cramahé took the oath of office as lieutenant-governor of Detroit, October 12, 1785, and that Major John Connolly, a native of Pennsylvania, was lieutenant-governor in 1788. Neither of these men ever exercised their rights as such officials so far as is known.

This is the substance of the protest and memorial for relief. Mr. Robertson was



called before the council, and interrogated as to the situation of Detroit. He said that Mr. Baby was the only French trader at Detroit, all the other traders being English residents. The protest was not signed by any Frenchman, because the French or Canadians, with the exception of Mr. Baby, were not concerned in trade, and were, consequently, very little concerned in the courts of law. Mr. Baby did not think it proper that he should sign the protest as he was named as one of the judges. He explained the method of arbitration in common use at Detroit as follows: "A general arbitration bond was entered into, and every person who signed it, bound himself to abide by the decisions of the arbitrators. (They sat in rotation.) Those who submitted their differences to the arbitrators could not be compelled to abide by their decisions, yet the dread of the consequences of refusing to submit to those determinations gave force to their awards, for those who would not obey, could not recover debts, and the commanding officer refused to grant them passes for their canoes to go to the Indian country. Yet still there were people who refused to abide by their decisions, not from unreasonableness, nor the injustice of their awards, but from a want of inclination to pay their debts.

It was agreed by those who signed the general arbitration bond, to pay each an equal portion of the expenses of any suit of law which might be carried on against any of them in consequence of their decision in this arbitration court.

People who lived in Detroit were compelled to submit or live there as outlawed."

Robertson further said that some of the persons who were named as justices of the peace were ignorant and illiterate. Maisonville and Elliott could mechanically sign their names, but they could neither read nor write. Caldwell had not a good education. There were 4,000 people in and about and dependent upon Detroit.

The remedy advised by Mr. Robertson was the establishment of a court of common pleas, with a judge who lived in De-

troit, and who might visit Mackinac once a year to hear causes there. The judge ought to be versed in the law and receive a salary and devote his entire time to his official duties.

In reply to a question as to the public buildings in Detroit and Mackinac, Mr. Robertson said that there were none at Mackinac, but at Detroit there were two French churches (one on each side of the river), but no English church, for the English never had a church in the Upper Country. There were barracks, Fort Lernoult, the government house where the commanding officer usually resided, the council house where the Indians assembled and delivered their speeches, the block houses at the different angles of Detroit within the pickets and the water-side, the naval dock yard, and the necessary buildings belonging to it, without the pickets on the east side of the town. These were the public buildings of Detroit.

It would be necessary for the English government to retain possession of Detroit if it wished to retain the fur trade.

As a conclusion to the investigation it was sought to ascertain how, in the past, laws had been administered in Detroit, and in answer to the question, Robertson said: "Before the conquest (1760), if any laws were followed or administered, they necessarily must have been those of France, or what prevailed in the rest of the province. From the conquest to the passing of the Quebec Act (1774), I have understood from the people there it was the English law that had been considered as the rule of decision, but I believe there have been few instances since the conquest to the present time of any law whatever having been administered there."

At the conclusion of the investigation, a draft of a report was drawn up by the council and submitted to Lord Dorchester. They were of the opinion that a competent person for judge could not be found in the district, and that when the proper person was found and appointed, he should receive a salary of £500 without fees. They reported against the project of arbitration as formerly carried on.

\*This may refer to the "Court of Conscience" mentioned by Judge May.

As two of the judges who had been appointed had resigned, it became necessary to select another person to fill the vacancy, and the purpose this time was to select one judge instead of the three who had been appointed, but who never acted.

Lord Dorchester, in discussing the qualifications necessary for the position, in a letter to Lord Sydney, said: "At Detroit where much property is circulated in commercial transactions in the Indian trade, cases are more complicated and increased by the mixture of Canadian and British settlers, and the diversity of these customs. The administration of justice in that district will therefore require talents which may be difficult to find without a more ample encouragement than what may be sufficient in the other parts of the province. The commandant at Detroit has hitherto ordinarily been put to the necessity of interfering for the preservation of order in the settlement."

Early in 1789, Lord Dorchester appointed William Dummer Powell first justice of the common pleas in the district of Hesse, and directed him to proceed to Detroit as soon as the season would permit, to make that place his home. He also appointed a land board, to consist of Major Clere, or the officer commanding at Detroit; William Dummer Powell, and any one of the following named justices of the peace: Duperon Baby, Alexander McKee, William Robertson, Alexander Grant and St. Martin Adhemar.

Concerning the choice of Judge Powell, Dorchester said that the appointment did not take place until the persons originally appointed among the principal inhabitants of the district, had declined the trust, nor until the necessity of a professional man to preside in the court had been fully ascertained. He said Mr. Powell was of the Middle Temple in 1776, and had borne arms under General Gage at Boston; that he was a considerable sufferer by his loyalty, and cut off from the prospect of a valuable family inheritance; that he came to Canada in 1779, recommended by the secretary of state. In conclusion, Dorchester said: "A man of confidence and abilities is very desirable for that distant part of the

province, and I know of no character at the bar here (Quebec) better qualified or more likely than he is to do justice to the trust reposed in him."

### William Dummer Powell.

Judge Powell was an American by birth. His name shows the connection between two important Massachusetts families. Not to go back as far even as the records of Massachusetts will permit us, we will start with Jeremiah Dummer, who married Hannah Atwater, and had four children.

(1) Governor William Dummer, who married Catherine Dudley, and died without leaving any issue.

(2) Hon. Jeremiah Dummer, who represented the Colonies in England, and who was unmarried.

(3) Samuel Dummer, who married Elizabeth Ruggles, and had one child, Elizabeth, and

(4) Ann, who married John Powell, May 13, 1714, and had three children as follows:

(5) 1. William Dummer Powell.

(6) 2. John Powell, married Martha Winslow July 3, 1748.

(7) 3. Jeremiah Powell.

Governor Dummer left a will dated June 28, 1756, but probated in 1761, leaving the larger portion of his estate to his three nephews, William, John and Jeremiah Powell, sons of his sister, Ann.

William Powell (5) was an enthusiastic member of the liberty party, and took an active part with the government during the Revolution. In one of the diaries of his time, he is referred to as "William Powell, a merchant, a high son of liberty if abusive language and assurance entitle a person to that character."

He was offensive to those who were opposed to the revolution, but his acts were approved of by the citizens of Boston, and he was constantly placed in important official positions. His brother, Jeremiah (7), was also highly esteemed by the Boston citizens, and entrusted with important work.

The second son, John (6), moved to Gloucester, where he lived for some time, but it is said that his son, William Dummer Powell, the subject of this sketch, was born in Boston. If that is a fact, the father must have returned to the city.

We find his name as living in Mackerel Lane, Boston, in 1760.

His son, William Dummer Powell, was born in Boston in 1755. In 1764, he was sent to England to be educated in a school in Tunbridge. After some years he went to Holland to study and to learn the French and Dutch languages. At the age of 17, he returned to England to study law. He was in Boston before the commencement of the war and when the troubles began, he joined the British army, and was there at the first hostilities under Gen. Gage. Upon the evacuation of Boston, he returned to England, and became a student in the Middle Temple. He remained in London until 1779, and then came to Montreal, and began the practice of the law. He was again in London in 1783 trying to get parliament to repeal or alter the Quebec Act.

He visited Boston after the conclusion of peace and tried to recover his family estates that had been confiscated. In this he was unsuccessful. Going to London again, he was called to the bar in 1785, and then returned to Canada to take up his permanent residence.

Lord Dorchester gave him the appointment of judge of common pleas in Montreal, but he preferred the position of judge of the Western District, which he accepted in 1789. He took an active part in the organization of the two provinces of Upper and Lower Canada in 1791, which took effect January 1, 1792.

He held court in Detroit until 1794, then removed to Newark (Niagara), the new capital of Upper Canada. His home was on the banks of the Niagara river, and was called after Lord Dorchester, "Dorchester Heights."

The important positions that he held from this time until his death, and he held many of them, are a part of the history of Canada.

He was chief justice from 1815 until he retired in 1825, and he died at Toronto in 1834, aged 79 years. His wife, Anne, lived until 1849, and died at the age of 91 years.

### The Commandant Acts as a Court of Equity.

Joseph Pernier dit Vadeboncoeur bought a farm from Louis Buffer December 19, 1782, and about six months

later agreed to exchange it for the farm of Francois Loudriet at Petite Cote. The exchange was duly made, and each party took possession of the farm of the other, but no deeds of conveyance were made. Loudriet went to Sandusky, and stayed there three years; when he returned, a deed was prepared from himself to Pernier to vest the title in the latter, but Loudriet refused to sign it. Pernier complained to Lieutenant-Governor Jehu Hay, to Major Ancrum and to the Notary Navarre, but he could get no assistance. He remained in possession of the farm for some time, and then traded it to Isaac Dolsen for a farm on the north side of the river (Detroit), of which he took possession, leaving Dolsen to take the farm at Petite Cote. In the winter of 1781, Dolsen sued Pernier for the value of the farm, alleging that the title was imperfect. This suit was before a committee—something like an arbitration—and they awarded Dolsen the purchase price of the farm. This award was paid, and Pernier again took possession of his old farm at Petite Cote. In the meantime, John Askin had purchased the rights of Loudriet, and after setting up a claim to the Petite Cote farm, sold his claims to Isaac Dolsen, and the latter took forcible possession of the land and drove Pernier out. Pernier now applied to the military commandant, Major Matthews, of the 53rd regiment.

This officer made a careful investigation into all the circumstances, and obtained certificates from many witnesses. He then gave his decision. It appears that the officer was not invited by the defendants to try the cause, but he took it upon himself to investigate and decide. All the testimony, as well as his opinion, are recorded. The principal ground for his decision was that Loudriet and Pernier, when they traded farms, took possession each of his new purchase, and that this actual occupancy made the exchange valid, even without any deed of conveyance. He ordered Dolsen to vacate the premises at once, and directed that if there were any further differences between Dolsen and Pernier, they must be submitted to the committee for adjustment.

One part of the decision of the major is quite interesting, and worth repeating

here. He said: "Pernier was actually removed by the simple authority of Mr. Askin, who also took upon himself to sell and put Isaac Dolsen in possession of the farm, and thus reduced, with a large family, almost to beggary, he was referred for redress to a trial at law at Montreal, or at this place when courts of law shall be established. For these reasons, and because Mr. Askin's determination expressed in his answer precludes a submission of the affair to arbitration, I cannot hesitate in my situation here, as an indispensable duty, according to my ideas of equity, to direct the present possessor, Isaac Dolsen, immediately to remove from the farm, and quit possession thereof to Joseph Pernier, whom I consider as just and lawful proprietor until such time as Mr. Askin shall, by a trial at law, establish the right he claims to it, and that arbitrators shall be chosen by Joseph Pernier and Isaac Dolsen, to settle between them all differences that may arise, relating to fences or any other matter upon the premises." This opinion is dated October 31, 1787.

Dolsen refused to obey the order of Major Mathews, and the latter sent a posse of soldiers, under charge of Captain James Wisman, of the 53rd regiment, and took forcible possession of the property, removing everything, and giving the property to Pernier. Dolsen now made out an account of the damages he had suffered, amounting in all to £1072 13s 9d, and told Wisman that he would look to him to pay the bill. Wisman replied as follows: "I have received your inventory of what you have chose to leave on the farm of Joseph Pernier, at the Petite Cote. I am to inform you that they remain there at your own risque, you having had and still having full liberty to take them away. I am extremely sorry you have laid out so much money on another person's property, for be assured that the person to whom you paid

your money for the farm in the first instance, shall at any time be proved not to have had the smallest shadow of right to sell it, and which perhaps you may not know has already been done to the satisfaction of at least four out of five of his majesty's justices of the peace for this district before whom this matter has already been. I repeat again, that I am really sorry for your situation, but you must thank the person that brought you into it, whom you will find to be single in his views on this subject."

### Sale of a Slave.

"L'Assumption, D. Hesse,  
24 June, 1791.

I, Henry Bird, do declare that the wench, Esther, became my property in consequence of an article of capitulation of Martin's Fort,\* whereby the inhabitants and defenders agreed to deliver up their blacks, arms and movables to the Indians as their property, on condition that their persons should be safely conducted to Detroit, which articles were punctually complied with and fulfilled by the captors; the said Esther became my property by consent and permission of the Indian chiefs.

HY. BIRD, Captain.

Present and witness to  
the capitulation,

A. MCKEE,  
D. A. I. Affairs.

I do hereby make over and give away my right and property in the said wench, and her male child to William Lee, in consideration of his having cleared for me sixteen acres of land.

H. BIRD, Captain."

Martin's fort was one of the small settlements in the northern part of Kentucky captured and pillaged during the Revolutionary War.

*To be continued.)*



# History of Detroit and the Great Lake States

## An Authoritative Record of Early Events in Canada and the Great Lake Region.

by C. M. BURTON.

### ARTICLE XV.

Among these old records is the list referred to. It contains a number of householders of that day not found in other places, and as the list is interesting, it will be given in full. In the original, the owners and tenants are distinguished by a numeral; those numbered (1) being proprietors, and those numbered (2) being tenants:

"Report of the chimneys in the town of Detroit, agreeable to the survey made Sept. 14, 1791, by Perot, Wheaton, Fraro and Cociliyard, by profession, masons and carpenters:

Black Dinah (2), kitchen fireplace wants repairs.

Mrs. Bourbank (2), chimney in a dangerous condition.

Joseph Edge (2), chimney condemned as being unfit for use.

Couteaur, the cooper (2), chimney wants repairs.

Jacques Pilquey (1), kitchen fireplace wants repairs.

Thomas Smith (1), kitchen chimney very dangerous, unfit for use.

Dr. Holmes (2), kitchen wants repairs, one hearth in the upper room in a very dangerous condition.

Provincial, blk. Smith (1), chimney wants repairs.

John Whitehead (2), chimney condemned.

John Welch (1), chimney condemned.

William Scott (1), kitchen chimney very bad, the pipe of the stove only 1½ inches from the woodwork.

John Cornwell (2), chimney in bad order, mason work done with clay; condemned.

Mathew Dolsen (1), kitchen chimney wants repairs.

Francois Roucour (1), kitchen chimney wants repairs.

Augustin Lafoy (1), kitchen chimney wants repairs.

Lieut. Hill (2), kitchen chimney in a dangerous condition.

William Hands (2), the top of his chimney in bad order.

Walter Roe, Esq. (1), kitchen fireplace wants repairs.

George Leith, Esq. (1), kitchen fireplace wants repairs.

Robert Gowie (2), fireplace in the room very dangerous.

Geo. Sharp, Esq. (1), kitchen fireplace wants repairs.

James Allen (2), kitchen fireplace wants repairs.

Rev. Mr. Fritchett (1), kitchen fireplace in a very dangerous condition.

— Carsen, soldier (2), brick chimney in kitchen condemned.

Jacque Baby, bake house chimney wants repair.

Geo. MacDougall (2), kitchen chimney wants repair.

Mrs. Baby (1), kitchen chimney wants repair.

William Forsyth (1), kitchen fireplace wants repairs.

Thomas Reynolds (1), kitchen fireplace wants repairs.

Mrs. Ford (2), kitchen fireplace wants repairs.

Lieut. R. Lewen (2), kitchen fireplace wants repairs.

John Askin, Esq. (1), kitchen fireplace wants repairs.

Fife Major (2), chimney condemned.



William Park, Esq. (1), kitchen chimney wants repairs.

John Martin (1), the harth in the upper room fronting the street, is in a dangerous condition.

Three houses opposite Doctor Holmes, occupied by soldiers, the chimneys all in bad condition.

We, the subscribers, having duly inspected the chimneys in the Town of Detroit, have found, and do declare the before mentioned chimneys to be exceptionable as herein stated.

LOUIS PERULT,      ALEXIS CERAIT,  
FRANCOIS FRERO,    JNO. WHEATON.  
JAMES MAY, O. P.

Detroit, Sept. 15, 1791."

There was no printing press, nor any method by which the above report could be readily reproduced, and the making of a copy of it for each delinquent was quite a task; too much of a task, in fact, to be undertaken, unless it became necessary. In order to avoid such a work, the original notice was taken to each of the parties named above, and each signed a statement that he had seen the original. The paper was then sent to Lieut. Smith by the magistrates, and the entire matter was certified to by Walter Roe.

Mr. Roe was a lawyer, who resided at that time in Detroit, and became of considerable local importance. After 1796, he removed to the Canadian side of the river and ended his days there.

There was no law applicable to Detroit, that would permit the enforcements that were necessary to protect the place against fires. The examination and report of the magistrates made it manifest that such a law was a necessity, for a fire, once started, would work a destruction of the village in short order. A public meeting was called, the state of affairs laid before the citizens, and a memorial addressed to the legislature to pass laws applicable to the situation. This memorial was forwarded to Mr. Smith, who presented it to the governor at Niagara.

### The First Provincial Parliament of Upper Canada.

Gov. Simcoe assembled the first provincial parliament of Upper Canada at Newark (Niagara), Sept. 17, 1792, and a few days later the petition of the citizens of Detroit was laid before the house.

The first information we have on the subject, is derived from a letter of Mr. Smith's, dated Sept. 24, 1792. He writes:

"Your petition from the merchants has been handed to the governor, Mr. Maccomb and I cannot yet answer the merchants' letter formally. When we are certain as to the result, you shall hear. I fear, however, from the silence observed on the occasion of the memorial, that it does not augur well. I am working day and night to effect a police bill for you in such a manner as to prevent and obviate all your difficulties, and my struggles shall not be wanting to bring it to maturity."

The chief difficulty was to so word the text of the act that while it could be applied to Detroit, it should not mention that place by name. The old trouble of passing laws for the government of a territory they were wrongfully in possession of, still bothered the Canadians, and came to the surface on this occasion.

While the police bill was being discussed, other matters of general importance came before the assembly. On the 24th, Smith writes: "We have done little as yet; one grand bill for the general settlement of the laws of the land will, I expect, pass, and we have passed a jury bill in general terms, through our house, with some difficulty—a bill to enable two justices to try 40s without appeal, is in great forwardness—ways and means seem the great difficulty. One or two committees for that purpose have proved nearly abortive. I proposed that every landholder should pay one farthing per acre per annum for all lands above 200 acres, which, I conceive, would not burden the settler, but the court party, and the popular party were both against me, and I stood alone in the house. However, I am still of opinion that a land tax, whether it goes by that name or not, must eventually take place. I act from principle, altho' I value the world's opinion somewhat. I cannot conceive that one farthing raised by the house of assembly can be deemed onerous, when the magistrates in quarter session, will probably have power to raise much greater sums."

On the 15th of October parliament was prorogued. The acts passed in this session are contained in eight chapters comprising five pages of printed matter. Each

chapter would be considered a separate act, as our laws are published. The acts were as follows: First, repealing the ancient law of the Dominion which required the use of Canadian or French laws for the government of the province; second, establishing trial by jury; third, establishing a system of weights and measures; fourth, abolishing summary proceedings in court in action under £10; fifth, an act to prevent accidents by fire; sixth, an act for the speedy recovery of small debts; seventh, an act to regulate tolls in mills; and eighth, an act for building a court house and jail in every district.

There is no doubt that some of these laws were passed at the instance of Detroit parties and were applicable to Detroit more than at any other place.

The first chapter sets forth that the old Canadian laws were adapted to the French, but that since the Dominion was divided, and Upper Canada formed, the number of Englishmen exceeded the number of Frenchmen, and the laws should be altered to meet the new condition. This change in nationality certainly had not taken place in Upper Canada, if Detroit was excluded, for that place was the most important above Montreal, and the great influx of English people had been at that place.

We have already seen that Chapter 5, "An Act to prevent accidents by fire in this province," was passed at the request of Detroit citizens. The substance of this act was that "It shall be lawful for the magistrates of each and every district in this province, in quarter sessions assembled, to make such orders and regulations for the prevention of accidental fires within the same as to them shall seem meet and necessary, and to appoint firemen or other officers for the prevention of accidental fires, or for the purpose of extinguishing the same, when such may happen, and to make such orders and regulations as to them may seem fit or necessary in any town or towns, or other place or places, in each district within this province, where there may be 40 store-houses and dwelling-houses within the space of half a mile square."

The assembly might as well have mentioned Detroit by name in this bill, for

there was no other place to which the law could be applied, but here again it became necessary to pass a general law in order to avoid openly claiming Detroit as a British possession.

The act to regulate the toll to be taken at mills was prepared in the interest of the mill owners at Detroit. It permitted the taking of one-twelfth of the grain as toll for the grinding, thus regulating the amount for the province.

Chapter 8 changed the name for the district of Hesse to the Western district, and provided that "a goal and court house" should be built "as near the present court house as conveniently may be." This phrase is somewhat uncertain, because there was at this time no court house in Detroit, and the jail was located near the corner of Wayne and Larned streets. It was not the intention to erect public buildings in Detroit, and under this act the court house and jail were subsequently erected in Sandwich.

What parliament did not do at its first session is quite as interesting to learn as what it did do.

A few days before the adjournment Mr. Smith wrote: "I have had several confabs with the chief about the continuation of the court of common pleas (in Detroit), but I find the law will admit of it, for reason hereafter to be explained to you." It would appear from this that there was doubt as to the propriety of maintaining this court on the north side of the river. It certainly was continued in Detroit for a period somewhat later than this. He continues:

"The bill for 40s which I brought into the house will, I hope, obviate the difficulty you mention of debtors under £10 not being subject to imprisonment." It will be remembered that for many years later than this imprisonment for debt was the proper way of collecting accounts, and that the first process in an action for debt was a *capias*.

Already preparations were being made for the meeting of the second session—preparations consisting of formulating bills that might be rejected at the first session, to be introduced in the second session, that would suit Smith's constituents. His letter of October 2, 1792, contains the following: "I proposed a bill to enable the magistrates in quarter

sessions to levy county rates, but it has been thrown out. I have been of opinion also that the magistrates in quarter sessions should choose the different county, town and parish officers; but that, it seems, cannot succeed either, most of the members being for a town meeting and that these officers should be elective. However, as I conceive these meetings to have been the cause of the late unhappy rebellion (the revolutionary war) and must always be attended with riot and confusion, it does not meet my ideas. I think the majesty of the people should never be called together but to choose their representatives for the house of assembly; and perhaps to assemble them without an instrument from the governor may be illegal, and to force that instrument from him by law, may be an infringement of his prerogative."

Here is shown the spirit of '76, cropping out in the Canadian settlements. The town meeting was the cause of all the trouble that arose between the colonies and Great Britain, and if it was once introduced into Canada, that colony, like the others, would soon be lost to the mother country. "I have been working a hundred ways," he continues, "to get your fire bill passed, and this day I have brought something into the house, which I think will succeed and answer the purpose. It is that whenever there shall be found in any space a half a mile square, 40 houses therein, it shall be lawful for magistrate in quarter sessions, to make regulations for the prevention of fire in that place. The great difficulty started in mentioning the name of the town of Detroit: however as the proclamation unquestionably, in my opinion, puts you into the county of Kent, I trust you will find no difficulty, as the bill is framed merely to secure Detroit."

On other occasions, the independence of the members of this first parliament, annoyed the court party, and of course Mr. Smith, who represented the party.

"Our house of assembly," he writes on October 2, "for the most part have violent leveling principles, which are totally different from the ideas I have been educated with. The neighboring states are too often brought in as pat-

terns and models, which I neither approve or countenance—I think modesty should be the characteristic of our first assembly, I conceive it political, prudent and grateful, and I am confident the contrary behavior won't succeed to do the country any good. Whatever may be the future prospects of designing men, we cannot, at present, exist without the assistance of Great Britain. She has ever shown herself a foster mother to her colonies, and any procedure which I conceive tends to divide the interests of the parent kingdom and all her colonies, I will oppose with all my weight."

Most of Mr. Smith's constituents lived on the American side of the Detroit river, and it is possible that if this letter had been made public at the time, a number of his adherents would have been displeased with his expression, but in the absence of newspapers and reporters, he was safe for the time being. As there was never a second parliamentary election in Detroit, Mr. Smith lost no votes here on account of this letter, or of others that he wrote on political topics. He had persistently argued in favor of a land tax—even against his own material interests, for he was a large landowner.

It might be interesting to examine the matter of raising taxes by this method, in the territory after the evacuation of 1796, but at the present time we are dealing with the laws of Upper Canada as applied to Detroit. On the subject of the proposed land tax, Mr. Smith writes, in his letter of October 20, 1792: "I will certainly be acquitted for having proposed a land tax, having at the very time, a petition before the governor and council in the name of my father for 6,400 acres, which is since secured, or rather ordered in council. This circumstance will be the strongest proof that I have acted from principle, and should malicious reports be spread, I beg you will promulgate my sentiments, situation, and concern, relative to the said land business.

"As to news here, we have none, not even a scandalous story. I expect you will be well prepared with memoranda for me in the spring, relative to what amendments you want in the present laws.

**Commodore Grant in Trouble.**

A report from Detroit October 6, 1793, refers to Commodore Alexander Grant, at that time, member of the council. "On the 4th instant, an accident happened to the Ottawa vessel. In heaving her down at the King's wharf, she sunk. The commodore arrived in town the day after and before a great number of gentlemen treated Captain Cowan in a very blackguard manner. He is confined in his room and a Court of Inquiry is soon to be held on the conduct of both. The vessel, however, is again afloat and out of all danger, to the great satisfaction of all friends of Cowan."\* This nearly

\* 12 Mich. His. Soc., 87.

led to a duel. The commodore called Cowan a rascal and threatened to horse-whip him, and was about to send a file of soldiers to take him from the wharf. One of the reporters wrote "We don't know what may be the event; whether any powder will be smelt on the occasion or not." A few days later, the affairs were patched up to the dishonor of both parties, but particularly of Cowan.

The Attorney General and clerk of the Crown visited Detroit in October, 1793, to attend the sessions of the court, which began October 16th.

A grand jury was called in Detroit in January, 1795, and returned a presentment January 25th. (See 12 Mich. His. 160.)

The Canadians felt themselves insecure in the possession of Detroit, and the feeling of insecurity was growing day by day as the states were complaining of the injustice of its retention.

To be sure, Harmar and St. Clair had advanced against the Indians with two armies, apparently well equipped to combat with savages, and both armies had been routed and defeated, but the defeat was not a sign that the government was vanquished. It was apparent to the English government and to the Canadians and to the Indians themselves, that the United States troops would be victorious in the end and that Detroit must, sooner or later, be turned over to the States. The military commandant at Detroit, complained again and again that the fortifications could not stand the attack of even a small army, and that if the Americans advanced beyond the

Miami (Maumee), the British troops might as well evacuate the town, for they would be unable to hold it.

It is with Detroit alone that we are dealing, and the formation of Wayne's army; the attempt of our government to negotiate a treaty with the Indians; the failure to effect the treaty; the advance of Wayne through the wilderness; the attempt of the British to stay his advance by building a fort on the Maumee and by aiding the Indians; the battle of Fallen Timbers, and the rout and destruction of the Indians, will be left to be narrated in other places.

At this time there was an embassy in England, negotiating with that country to make a new treaty which should carry into effect the treaty of 1783, and which would result in the evacuation of the United States posts by British soldiers. This new treaty was not perfected until 1794, and in the meantime, everything at Detroit which indicated the leaning of any citizen towards American interests, was looked upon with suspicion and was likely to be followed with imprisonment.

**American Spies in Detroit.**

The American envoys to the Indians, who sought to bring about a peace with them before Wayne began his march through the woods, were not permitted to visit Detroit, nor were they permitted to cross Detroit River at its mouth, and not being able to effect a meeting with the Indians on the Canadian side, they were compelled to return to congress fruitless. Strangers at Detroit were watched, and their actions commented upon. On the second of April, 1793, one of the justices was approached by a citizen—John Miller—who asked permission to lay a complaint before him. The complaint, reduced to writing, was substantially as follows: William Erwin, a man who lately came from the American States formed the acquaintance of Miller and tried to persuade him to leave Detroit for the States, where he would make a gentleman of him. He asked Miller to go around the works (fortifications) with him, and, as Miller refused, Erwin left the house at night, and



spent four or five nights in making investigations. He told Miller that a large army would soon come against the place. Apparently the story, however preposterous it was, was believed by the magistrate, and a warrant was issued for the apprehension of Erwin. The acquaintance between Miller and Erwin commenced on the 10th of March, and as the complaint was not made until the third of April, Miller had an abundance of time to make a detailed plan of the village and fortifications, and leave for the States before the warrant for his detention was issued.

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#### Visit of Governor Simcoe.

An event of considerable local importance occurred at this time. This was the visit to Detroit of Gov. John Graves Simcoe.

The threats of certain hot-heads among the Americans to attack Niagara and Detroit, induced Gen. Simcoe to visit the latter place in order to ascertain the best means of opening a constant communication between the two posts named. Gen. Simcoe and suite left Niagara in February, 1793, accompanied by Captain Joseph Brant, the great chief of the Six Nations, and a body of Indians. On the 18th of February he reached Dolson's on the River Tranche (Thames) and was received by the entire settlement. They followed this river to Lake St. Clair, and thence down the lake and Detroit river to a point opposite Detroit. Crossing the river, the party was received by the garrison and citizens. Simcoe examined the fortifications and reviewed the troops, the Twenty-fourth regiment, and remained in the place until February 25, when he set out upon his return to Niagara. It is said that upon his return, he stopped an entire day on the site of the present City of London, examining the place and surroundings with the idea of making it the seat of government, or capital, of Upper Canada.

The second session of parliament met at Newark, (Niagara), May 31, 1793, and continued till July 9, of the same year.

The acts passed at this session were as follows:

1. An act for the regulation of the militia.
  2. An act for the election of parish and town officers.
  3. An act for laying and collecting assessments and rates.
  4. An act for laying out and keeping in repair highways and roads.
  5. An act to confirm and make valid certain marriages heretofore contracted in the country now comprised within the province of Upper Canada, and to provide for the future solemnization of marriages within the same.
  6. An act to fix the times and places for holding courts of quarter sessions of the peace.
  7. An act to prevent the further introduction of slaves.
  8. An act to establish a court of probate, and also a surrogate court in every district.
  9. An act to authorize the lieutenant-governor to appoint commissioners.
  10. An act to establish a fund for salaries of legislative council.
  11. Providing bounty for destroying wolves.
  12. Appointment of returning officers.
  13. Payment of salaries of members of the house of assembly.
- Only a few of these acts were in any way interesting to the people of Detroit.

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The first act adopted by parliament in its second session at Newark (Niagara), in 1793, was relative to the militia. While by its terms applicable to the entire district, it was probably confined, in its operation, to the country south of the Detroit river. Lists of militia living on that side of the river, occasionally appear, but if any persons were enrolled on the Detroit side, the lists have yet to be unearthed.

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The second act is of more local importance. By the terms of this act, a popular election was to be held on the first Monday in March in every year, at which there were to be chosen a town clerk, two assessors, one collector, from two to six overseers of highways, a poundkeeper and two town wardens. This election was to be called by any two justices of



the peace in the district. The passage of this act indicates that the New England ideas of self-government were instilled in the Canadians, and that the court party, represented by Mr. Smith, was unable to control the other members of the assembly. This bill, or one similarly worded, had been introduced in the first session and had failed of passage, being violently opposed by Mr. Smith, as indicated in his letter written on that occasion.

By the terms of this act, if any person elected to an office, refused to accept the same for seven days after being notified, he should pay 40s as a fine for his refusal. The tax, provision for the collection of which a law was passed, was not a land tax as we understand that term, but each individual was taxed in proportion to the amount of property he had. It became a claim against the individual, not the land. The entire list of inhabitants was to be divided by the assessors into eight groups, the lowest included only those whose property amounted to £50 or less, and each group in the scale included citizens whose property exceeded the next lower group by £50, so that the eighth group included all having property over £400. A flat tax of 2s 6d was levied on each individual in the first class, and this amount was increased in the successive classes, to 5s, 7s 6d, 10s, 12s 6d, 15s, 17s 6d, and the eighth class to 20s per annum.

The justices of the peace in quarter sessions were directed to appoint a treasurer to hold and disburse the taxes collected. This act also provided that members of the assembly should each receive as wages the sum of 10 shillings for each day that they were engaged in attendance in the house.

Every freeholder was compelled to work at least 12 days in each year in maintaining and repairing roads, and eight hours of labor was fixed as a day's work.

The fifth act, relative to marriages, was of the utmost importance to Detroit, and the measure was introduced and urged through the assembly at the request of Detroit citizens.

There was no minister of the church of England in Detroit nor had there ever been one. On some occasions, a chaplain would be, for short periods of time, attached to the garrison, but except on these occasions, no valid marriages had ever been solemnized by the Protestants at Detroit. The marriage ceremony was constantly being performed by the commanding officer of the garrison. If he declined to act, it was performed by the adjutant. Sometimes the lieutenant-governor acted. All of these marriages were illegal, and an attempt was made to pass a law that should legalize the past marriages, and provide for future marriages.

On the occasion of this act, Gov. Simcoe wrote: "The general cry of persons of all conditions for the passing of the marriage bill, was such that I could no longer withhold, under the pretense of consulting any opinion at home, having already availed myself of that excuse for delay."

The act legalized all marriages performed "before any magistrate or commanding officer of a fort, or adjutant or surgeon of a regiment acting as chaplain, or any other person, in any public office, or employed before the passage of this act." To take advantage of this act, it was necessary for the husband and wife to make oath to their marriage, giving the date of the same, and the dates of the birth of their children, if any, and this statement was to be recorded by the clerk of the peace. It is certain that such a record was made, for I have copies of one or two of the certificates, but a diligent search has, so far, failed to reveal the hiding place of the records.

Justices of the peace were authorized to perform the marriage ceremony in case no Protestant minister resided within 18 miles of the residence of the parties, and the justice was directed to keep a record of such marriages.

Although the marriage, of which the record is here given, took place several years after the separation of Michigan from Canadian laws, the marriage was performed under the act above recited and the parties subsequently moved to Detroit and lived there.

Fort Erie, 6th June, 1803.

Whereas, Jesse Burbank and Sarah Hickley are desirous of intermarrying with each other, and there being no Parson or Minister of the Church of England living within Eighteen Miles of either of them, they have applied to me for that purpose. Now these are to certify that in pursuance of the powers granted by an act of the Legislature of the Province, passed in the Thirty-third year of his Majesty's Reign, I, John Warren, Senior, one of his Majesty's Justices of the Peace, having caused the previous notice by the Statute required to be given, have this day married the said Jesse Burbank and Sarah Hickley together, and they are become legally

contracted to each other in marriage—

Witness:

Henry Warren. Jesse Burbank.  
 Sylvia Chapin. Sarah Burbank.

#### THE COURTS.

Chapter 6 fixed the time of holding Quarter Sessions of the Peace for the Western district in the town of Detroit on the second Tuesday of July, October, January and April in each year, and a court of special Sessions of the Peace was to be held yearly on the second Tuesday of July at Mackinac. The court of Quarter Sessions was a court composed of all the justices of the district, sitting en banc.

TO BE CONTINUED



"There is something the matter with Dal, Max," I volunteered. "He has been acting



strangely all day, and just now he was making out a list—names and numbers."

"You're to blame for that, Kit," Max said

seriously. "You put washing soda instead of baking soda in those biscuits today and he thinks he is a steam laundry. Those are laundry lists he is making out. He asked me a little while ago if I wanted a domestic finish."

The foregoing is only one of many embarrassing incidents that happened to a party of society people who were quarantined after a dinner given in the house of one of their friends. A party of uninvited guests in the persons of a policeman, a burglar, Aunt Selina and the divorced wife of the host complicates an already trying situation, which, happily, like all pleasing stories, is worked out by the author in her usual clever style. Really a criticism of *When a Man Marries* by Mary Roberts Rinehart can hardly do justice to the story. It is exhilarating, cleverly sketched and withal, intensely enjoyable. In addition, the book is profusely illustrated. The author of *The Circular Staircase* and *The Man in Lower Ten* has added to her already established reputation.

*When a Man Marries*, by Mary Roberts Rinehart. Bobbs, Merrill Company, Publishers, Indianapolis, Ind.

# History of Detroit and the Great Lake States

## An Authoritative Record of Early Events in Canada and the Great Lake Region.

by C. M. BURTON.

### ARTICLE XVI.

#### Slaves.

An act to prevent the further introduction of slaves was passed as chapter 7. The law permitting the importation of Negro slaves was repealed. Slavery was not abolished, but, in order to prevent a continuance of the system, it was provided that children born of slave mothers, should abide with the master of the mother, until the child was 25 years of age, and should then be free.

There were a good many slaves in or about Detroit, and the agitation of the freeing of them, excited their owners. It was necessary to make some satisfactory explanation of the proposed law to quiet the fears of the slaveholders of Detroit, and Mr. Smith explained in a letter of June 25, 1793: "We have made no law to free the slaves. All those who have been brought into the province, or purchased under any authority legally exercised, are slaves to all intents and purposes, and are secured as property by a certain act of parliament. They are determined, however, to have a bill about slaves, part of which I think is well enough, part most iniquitous. I wash my hands of it. A free man who is married to a slave—his heir is declared by this act to be a slave. Fye! Fye! The laws of God and man cannot authorize it.

"A marriage bill—a wolf bill—a parish officer bill—a probate bill—a common pleas bill—and some others have gone through the house."

It is well to note the terms of the emancipation bill as here outlined. The

ordinance of Congress of 1787 provided that there should be no slavery in the northwest territory. As soon as Detroit was separated from Canada and was placed under the government of the United States the Canadian slaves began to cross the river in the hope of reaching freedom. This law of Canada and Jay's treaty of 1794 were brought into play to force a return of these fugitive slaves, and both acts ran counter to the ordinance of 1787. It will be some time before we reach the period of Judge Augustus Brevoort Woodward, Michigan's first great chief justice, to whom these fugitive slave questions were submitted, and it needed just such a man to clearly define the meaning of these laws, and to construe them in conformity with each other.

On the occasion of the passage of this act, Gov. Simcoe wrote: "The greatest resistance was to the slave bill. Many plausible arguments of the dearness of labor and the difficulty of obtaining servants to cultivate lands were brought forward. Some possessing Negroes knowing that it was very questionable whether any subsisting law did authorize slavery, and having purchased several taken in war, by the Indians, at small prices, wished to reject the bill entirely. Others were desirous to supply themselves by allowing the importation for two years.

The matter was finally settled by undertaking to secure the property already obtained upon condition that an immediate stop should be put to the importa-

tion and that slavery should be gradually abolished.

The census of 1782 shows that there were then 179 slaves in Detroit and that they had nearly doubled the number since the census of 1773—nine years. It is safe to conclude that in 1793, there were more than 300 slaves in the Detroit district and there was great reason to dislike any law that would set them free, and thus deprive their owner of so much property. An inventory of the property of John Askin, made January 1, 1787, includes the following list of slaves owned by him:

Jupiter, a negro man .....	£150
Tom, a negro man .....	140
George, a negro boy .....	90
Sam, a Panis-blacksmith....	150
Susanna, a wench and two children .....	130
Mary, a wench .....	100
Total .....	£760

All these were owned in the village of Detroit and Mr. Askins entire property at this time was inventoried at £48,142 12s 6d.

#### Probate and Surrogate Courts.

A court of probate for the province of Upper Canada was authorized by chapter 8, and over this court the governor or lieutenant-governor was to preside; but the governor was authorized to appoint "an official principal of said court" and a register and other officers to carry it on. This court could probate wills and grant administration on estates of intestates.

In addition to the provisions in chapter 8 of the act, for a court of probate for the province of Upper Canada, provision was also made for the organization of a surrogate court in each of the four districts of the province, and the appointment of a surrogate to preside as judge in each district. This court, also, could probate wills and issue letters of administration. When a deceased person left property in any district other than that in which he resided, the estate was to be probated in the court of pro-

bate only; and not in any surrogate court.

The judge and register were to receive fees for services in connection with the probate of estates, as follows: For seal to probate of will where the estate was £300 or under 16s; if under £1,000, it should be £1, and if over £2,000, it should be £2. Seal to any other instrument, 13s 4d; caveat, 6s 8d. Inventory, the same; and citation, 3s 4d.

The fees of the register in the same cases were as follows: Seal to probate of will in all cases, 6s 8d. Seal to any other instrument, 3s 4d; filing caveat and inventory, same fee; citation, 1s; collating will, 6s 8d; drawing bond, same amount; searching register, 1s each year; for copying each page of 18 lines, six words in each, 1s. The fee system was carried on in our own court of probate for many years, under somewhat the same form as above mentioned.

The eleventh chapter, which provides for the destruction of wolves and the payment of a bounty for the same, contains a provision that was applicable to Detroit, and which was possibly inserted only because Detroit was in the western district, and consequently should have been excluded from the effect of all Canadian laws.

The act, after providing for bounties for killing of wolves in the province, contains the following: "Provided always that this act shall not extend, nor be construed to extend to the western district of this province, nor have any force or operation whatever therein."

The last of the 13 acts or chapters pertained to the establishment of a fund for the payment of salaries to the members of the legislature. This fund was to be raised by means of a license to sell liquors. Every person keeping a house of entertainment or selling liquors was compelled to take out a license, and pay therefor the sum of £2 16s, and to have written or printed over the door of his house, the words: "License to sell wine and other spirituous liquors." He should also enter into a bond to keep a decent and orderly house. A failure to comply with these conditions was punishable

with a fine of 5s, "to be recovered before any justice of the peace," one-half of the fine to be paid to the informer.

It was not long before this act was called into operation in Detroit. The following correspondence will explain the incident, except that the complaining witness was Antoine Dequindre, to whom had been given the cognomen of Dagniaux, as it appears here and in many other places:

Detroit, 31st December, 1794.

Sir: I am directed by the magistrates for the Western District to forward the subjoined case, with a request that you will favor them with your opinion thereon, as the issue awaits your determination.

I have the honor to be, sir, your most obedient and very humble servant,

W. ROE, Clk. Peace,  
Western District.

JOHN WHITE, Esq.,  
Atty.-Gen., Etc., Etc.  
CASE.

Dagniaux  
vs.

Frazer.

On information against Deft. for re-tailing and selling one quart of rum on 20th inst., and another on 21st inst., without license.

The fact proved on oath of Dagniaux.

Query: Is defendant punishable for so doing? If so, under what act, and to what amount?

W. R., C. P.

The reply to the attorney-general is as follows:

Niagara, Jany. 19, 1794.

(Evidently a misdate for 1795.)

The attorney-general laments that he is not able to give the magistrates the information they desire. Notwithstanding he was the framer of the act, he has scarcely a vestige of it in his recollection, owing to the multiplicity of business that he had to engage his attention during the session.

And the acts being taken to Lower Canada for the signature of the late Chief Justice (as speaker of the L. Council), whose immediate departure after the prorogation occasioned that

omission, he cannot refer to the act in question to enable him to answer the cases. The basis upon which he drew it was the 26th of G. 2, C. 31, which regulates the manner of licensing public houses in England (and was to amend and enlarge the 2d G. 2, C. 28, probably to be found in Burns J.) by which any magistrate is enabled to summon upon suspicion—and is enabled to convict on the oath of one credible witness. The A. G. conceives that (because the nature of the offense demands a summary conviction) he adopted the rule of the English law—if it is otherwise, it must have been altered by the wisdom of the Houses. While writing this, he recollects that Mr. Macomb is possessed of the act, and he presumes (by receiving this case) there is no mode of conviction expressed in it. Two principles will arise upon that—if the latter law is not in the negative, the summary mode of conviction in the former, is not abrogated. If the last act is in the negative, and yet does not point out a mode of conviction, it becomes a misdemeanor, and of course cognizable at the session by way of indictment.

But this is advising in the dark, and the magistrate will perceive that the want of the act precludes a definite opinion. He would therefore wish that the clerk of the peace would transcribe the part of the act alluded to, and send it by the Winter express, for as the acts have not yet been returned, as expected, he fears they will not arrive till the Spring. The information may be taken on oath—which will save the limitation if any in the act. He begs to inform the magistrates that there must be the oath of one credible witness besides the information of the informant.

J. WHITE, A. G.

To the Worshipful the Chairman and Magistrates of the Western District in Quarter Session assembled. J. W.

Walter Roe, the clerk of the peace,

was a lawyer of some prominence in early Detroit and Sandwich, where he resided. He became dissipated and in one of his drunken sprees fell into the river and was drowned.

A few more items appear in the old



records and files during the years 1793 and 1794. John Heydek a sailor, belonging to the sloop Beaver, absented himself from that vessel without leave of the owner or master, from the 28th to the 31st of July, 1793. He was arrested, tried before Judge Askin, justice of the peace, convicted and sentenced to the keeper of the common goal, "to be safely kept in said gaol for the space of 28 days," from August 7, 1793.

The master of the Beaver was John Drake.

It seems impossible at this time to tell when the court of common pleas ceased to exist as no successor was appointed. In the summer of 1793, Mr. D. W. Smith, M. P., wrote from Niagara: "Your common pleas, I understand, is re-established, and the bench, I am told, is to be filled by the Hon. Col. McKee and W. Macomb." It is probable that Smith was in error, for I can find no evidence that Powell ever had a successor in Detroit and that we were without a judge until the coming of Wayne in 1796. To prove the continued existence of the court of common pleas during this period, there is an advertisement, hand written, and probably posted up on some convenient post or tree, notifying the public that by virtue of a writ of execution issued out by the court of common pleas, the sheriff, Richard Pollard, would sell the property of the defendant, Joseph Mainville, "at the church door of the Parish L'Assumption la vingt deuxieme day of September next," thus mixing his French and English to suit the natives.

Attached to this notice was another that possibly had some legal significance at the time that would scarcely be complied with under our law. It was as follows:

"All and every person having any prior claims by mortgage or other rights, are hereby required to give notice thereof in writing to the said sheriff before the day of the sale."

At the present time, the purchaser

takes his own risk of outstanding prior claims when he purchases at such a sale.

Robert Forsyth, acting for George Sharp, complained that John Bowers, an engag   of Sharp's, had, September 26, 1794, refused to go to work as requested, and stated that he would prefer going to prison to obey his orders on that head. On this complaint, Bowers was arrested and brought before the justice. He answered, that by his engagement, he was not required to do farm work, such as he had been requested to do. He entered a counter complaint against Forsyth for assault, and for using abusive language.

"Adjudged that Bowers return to his duty to serve out his time agreeable to his engagement, but not obliged to go to work at farmers' work, and that Forsyth gives in bail to appear at the next quarter sessions of the peace to answer for having struck said Bowers.

"Sept. 27, 1794."

The postscript to the decision, settled the entire matter. "The parties having come before me, and made up their disputes.

"JOHN ASKIN, J. P."

Two suits of John Askin and Jonathan Schieffelin, co-partners, against John Askin, were tried at the court of common pleas, March 31st, 1794, and a verdict rendered for the plaintiff. These suits were settled by the payment of £214 3s 7d, October 11, 1794. This indicates the existence of this court in March, 1794, but before October of that year, Judge Powell had left Detroit, for his letter, dated October 13, of that year, is written from Mount Dorchester.

Mount Dorchester does not appear on any modern map. It is situated on the Niagara river, a short distance below the falls. "The ridge of land running along the border of the Niagara district, called the mountain, was in Gov. Simcoe's time, by royal proclamation, named Mount Dorchester." In this letter the judge states that he has been twice to Newark to open the court of K. B. (king's bench).

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### ARTICLE XVII.

Judge Powell's letter reads as follows:

Mount Dorchester, Nov. 14, 1794.

Dear Sir:

Your favor of the 21st Ult., covering a note of costs on a penal judgment, and stating a question upon the demand, I received this day. As the case is stated as a magistrate for future guidance I am less scrupulous of offering my opinion than if the reference was merely individual. As I am unacquainted with the terms of your police regulations since I was in Detroit, I cannot speak for the letter of them, but I know of no general law which gives you power to create offences and levy the penalties. The ordinances of Quebec, under which your former regulations were made, subjected the recovery of all penalties to suit in the common pleas, where, of course, costs were given as in an action of debt, but I fear, on a summary conviction before a single justice out of sessions, no costs were recoverable by any statute prior to the 14th of the King; which is the epoch of our criminal code, although I think, by a subsequent statute, the 18th George III, some provision is made for costs in such cases, but it has not force of law here.

It is a general rule of law, that the jurisdiction of justices, without the intervention of a jury, being contrary to the provisions of Magna Charta, must be derived from some statute, and on the same principle that the statute which gives the authority, must be rigidly pursued.

Therefore in your case, if the act or ordinance makes no special provision for

costs, none can be adjudged. In forwarding this statement of the law, I am possibly committing an impropriety. Should I have misconstrued your letter, and you prove a party in lieu of the justice in the business, for the appeal in all such cases goes to the K. B., so that in justice to me, if you are the party, you will pay the costs, and let the business sleep.

Your very humble and obedient servant,

WILLIAM DUMMER POWELL.

The third session of the first parliament met at Newark, June 2, 1794, and was prorogued on the 9th of the following July. Only twelve acts were passed.

Through these acts and those of preceding sessions, we find the continued addition of names of officers and offices that are not described in the acts, nor are there any provisions made for the election or choice of such officers. Their duties are not defined. We are left to suppose that the names and duties are taken from England and English laws, and that the Canadians understood what they were, and did not need an act of parliament to provide for their introduction in Canada.

In the first act, relative to juries, are mentioned a clerk of the peace, bailiff, assize, nisi prius, district court, judge of assize or nisi prius, and other offices and officers that are nowhere described in the Canadian laws. We know from common usage, who these officers are, and the duties they have to perform, but it seems strange, that the duties are not laid down in their early statutes. No person was allowed to serve on more than one jury in any year.

The second act provided for the establishment of a superior court of civil and criminal jurisdiction, and to regulate the court of appeals. This was called the court of king's bench, and was a court of record of original jurisdiction, to be presided over by a chief justice and two puisne justices. Court was to be held at Newark, and the four sessions were to be known as Hilary, Easter, Trinity and Michaelmas terms. Proceedings were, of course in the English language, but a summons in French was to be served where the defendant was a Frenchman or French-Canadian.

The court of common pleas was abolished, and the cases pending therein, were transferred to the court of king's bench. The governor, lieutenant-governor or the chief justice, together with any two or more members of the executive council of the province, were to compose a court of appeals. Appeal could be made from the court of king's bench to the court of appeals in all cases where the subject matter in controversy exceeded £100. A fee bill for the attorney-general; clerk, marshal, crier and sheriff was provided by this act.

The next act provided for a district court in each district, with a judge to be appointed by commission. This court was to be held in the town where the court house was built, "excepting in the western district, where the court shall be holden in the town of Detroit." A fee bill for the attorney, sheriff, clerk, crier and judge was given in the act.

The code of procedure was supposed to be very simple and probably was simple, until the learned lawyers began to copy the prolix forms of the old country in their pleadings.

Chapter four provided that the governor might license not exceeding sixteen persons to act as advocates and attorneys in Upper Canada. The roll of advocates should be kept among the records of the court of king's bench.

The fourth session of the first parliament met at Newark, July 6, 1795, and was prorogued August 10, 1795. There were only five acts passed at this session. The first act appointed a board of surgeons, who had powers to grant licenses to practice "physic, surgery and mid-

wifery" in the province. Persons attempting to practice without a license were fined £10.

The second act was passed to assist persons who had been citizens of Canada or England, and who had resided in the United States as citizens, and had returned to Canada, and again became citizens of that country. All such persons were ineligible to either house of parliament.

The fourth act amended the law establishing the court of king's bench, by providing that this court should hear all actions brought for smuggling.

The fifth chapter established the office of register of deeds, thus preceding, by one year, a nearly similar law put in force in Detroit, upon the evacuation of the place by British troops.

The laws of the two countries are very similar in many of the provisions, but there are some matters of difference. The office hours of the register were fixed at from 9 o'clock in the morning until 1 o'clock in the afternoon. A separate record book should be kept for each township; the register's fees should be one shilling for each folio of one hundred words. Conveyances were not recorded at full length, as in modern records, but an abstract, only, of the paper was entered by the registrar. In this particular our own laws at a later date followed the provisions of the Canadian statutes, though, as a matter of fact, no such abstract or extract, was ever recorded in Wayne County subsequent to 1796. No provisions of the Canadian statutes, were, every conveyance was recorded at full length under our territorial or state laws.

Thus ended the first parliament of Upper Canada.

The members of the legislative council of the first parliament were William Osgoode, James Baby, Alexander Grant, Peter Russell, members of the executive council, and Robert Hamilton, Richard Cartwright and John Munro, members of the legislative council. The members of the lower house have already been given.

William Osgoode was born in England in 1754, and graduated from Oxford in 1777. He studied for the law and was called to the bar. He came to Upper Canada as chief justice in 1792. He re-

turned to England in 1801 and died in 1824, never having married. Osgoode Hall in Toronto was named in his honor.

James (or Jacques) Baby was born in Detroit, August 25, 1763; his father, James (or Jacques) Duperon Baby, being one of the men who rendered great assistance to the garrison at that place during the siege by Pontiac in that year. James was an extensive trader in Detroit during the term of British occupation, and his name is frequently found on preceding pages. He took a prominent part in the war of 1812 in the British cause, and suffered great losses in those trying times. After the war was over, he was appointed inspector-general and removed to York (Toronto), where he continued to reside till his death in 1833, February 19.

Alexander Grant was another Detroit citizen. Judge R. S. Wood, of Chatham, Ont., a grandson of Alexander Grant, says in his "Harrison Hall and its Association," that Grant (Commodore Grant he was usually called) was the fourth son of the seventh laird of Grant of Glenmoriston, Inverness, Scotland. He came to America with General Amherst in 1757, and was appointed to the command of a vessel on Lake Champlain. He came to Detroit at a later time, and in 1774 married Therese Barthe. John Askin married Archange Barthe, a sister of Therese, and the two families were always very intimate. Grant owned a farm in Grosse Pointe, Wayne County. He was given command of the Canadian or British naval department on Lake Erie, and was commonly called "Commodore of the Lakes." He died in 1813, leaving 11 children. His only son, Alexander, died unmarried, so that the family name has become extinct. Judge Woods says, that James Baby and Alexander Grant were associates of Judge Powell in 1792, but I have not found any Canadian law that provided for side judges.

Under the marriage laws of Upper Canada, as above related, it became necessary for persons who were not married by the Catholic priest, to make a sworn statement of their marriage, and file a copy with the clerk of the peace. The following is a copy of the original affidavit made by Therese Barthe of her

marriage with Alexander Grant:  
PROVINCE OF UPPER CANADA

W. DISTRICT.

I, Therese Barthe of Detroit, do solemnly swear in the presence of Almighty God, that I did publicly intermarry with Alexander Grant, Esq., member of the Executive Council of said Province, and commander of the Marine Department on the Upper Lakes, on the thirtieth day of September in the year of our Lord, one thousand seven hundred and seventy-four, and there is living issue of said marriage.

Therese, born 13th Feby., 1746.

Archange, born \_\_\_\_\_

Phillis, born \_\_\_\_\_

Arabella, born \_\_\_\_\_

Anne, born \_\_\_\_\_

Elizabeth, born \_\_\_\_\_

Nelly, born \_\_\_\_\_

Alexander, born \_\_\_\_\_

Maria, born \_\_\_\_\_

THERES BARTHE.

Sworn before me at Sandwich this twenty-seventh day of February, 1798.

THOMAS SMITH,

J. P. W. D.

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The first session of the second parliament met at Newark, May 16, 1796, and was prorogued on the 3d day of June, lasting a little more than two weeks. The upper house consisted of William Osgoode, James Baby, Richard Duncan, William Robertson, Robert Hamilton, Richard Cartwright, Jr., John Munro, Alexander Grant and Peter Russel. The representatives from the western district, Essex and Kent, were Francis Baby, David W. Smith and Thomas McKee.

I have been unable to ascertain whether any election was held in Detroit at this time, but presume none was held, for it lacked but a few months of the time when the post was surrendered to the Americans. Baby and Smith were re-elected members, and McKee, the new member, lived on the Canadian side of the Detroit river. Seven acts were passed at this session.

First—An act regulating coins. This fixed the value of coins of other countries and provided a punishment for counterfeiting, but did not provide for any native coining.

The second act regulated the manner of drawing juries.

The act for licensing public houses as amended, in order to permit licenses to be obtained at any season of the year, and providing a punishment for those who sold liquor without a license.

The fourth act is the only one of interest to Detroit. This act repealed the former act, providing for the holding of the court of quarter sessions in Detroit and Mackinac, and provided that these courts in the western districts should be held in the parish of Assumption (Sandwich) "until such time as it shall seem expedient to the magistrates to remove and hold the same nearer to the island, called the Isle of Bois Blanc, being near the entrance of the River Detroit." "As it seems not to be any longer expedient to hold the said court in the town of Detroit aforesaid, be it enacted that the district court shall be holden" in the same place the courts of quarter sessions are held. This act was passed in contemplation of the treaty of 1794, which, although already adopted, did not take effect until the summer of 1796.

It may not be generally known that Bois Blanc island was, at one time, a part of the territory of the United States. In the first treaty fixing the boundary line between the United States and Canada, it was provided that the line of navigation should be the dividing line. The line of navigation was between Bois Blanc island and the Canadian shore, and this was accepted, but subsequently—June 18, 1822—commissioners who were appointed to run the boundary line anew concluded that the island was too near the mainland to be properly possessed by another nation, and they conceded the claim that it ought to belong to Canada, and it was given to her, but it was, at the same time, provided that the waters on both sides of the island should be equally free to both nations.

The law providing for bounties for killing wolves and other wild animals was repealed by the fifth act.

The sixth act provided for regulating commerce between Upper and Lower Canada, and the seventh and last act provided for payment of wages to the members of the house of assembly.

This ends the legislative connection

between Detroit and Canada. Parliament was prorogued but a few days before the British army evacuated Detroit, and the post passed under the control of the laws of the North West Territory.

Mr. C. C. James of the Department of Agriculture, Toronto, has pointed out a mistake made in printing the laws of Upper Canada. The error made by the compiler of these statutes, has caused me to make an error in following the compilation. The first parliament of Upper Canada was called at Newark in the fall of 1792, and there were three members from Detroit and vicinity elected as members of this assembly, namely: David W. Smith, Francis Baby and William Macomb. There were five sessions of this parliament, all held in the same place—Newark—the last being held in May, 1796. The compilation above referred to states that the first session of the second parliament was held in May, 1796. If this statement had been true—as I supposed it was, until Mr. James showed me that it was not—it would follow that the election to the second parliament took place while Detroit was still under British rule.

The error being corrected, we now find that the election to the second parliament, did not take place until August, 1796, a short time after Detroit passed under the government of the North West Territory, and hence no member of that assembly came from Detroit. Our village, however, may make some claim to representation in this parliament, for one of its members was Thomas Smith, who, both before and after the election, resided in Detroit.

He was a surveyor and mapmaker of some note, and a citizen of considerable importance. His daughter was the wife of John McDonnell, whom some of the older citizens will remember as living at the northwest corner of Shelby and Fort streets, where afterwards stood the Whitney Opera House, and where now stands the post office.

DETROIT UNDER THE LAWS OF THE UNITED STATES.

We have now reached the time when Detroit ceased to be under the control of Canadian laws, and passed under the government and laws of the territory



northwest of the River Ohio.

The North West Territory was organized under the ordinance of 1787, with Arthur St. Clair as governor, Winthrop Sargent as secretary and Samuel Holden Parsons, James Mitchell Varnum and John Armstrong as judges. Armstrong declined the appointment, and John Cleves Symmes was appointed in his place. Varnum, who was born at Dracutt, Massachusetts, but was a brigadier-general in the Revolution, credited to Rhode Island, has sought the Ohio climate for his health, which had been undermined by his soldier's life, but he soon died, and William Barton was appointed to succeed him, but Barton declined, and George Turner took his place. General Parsons died (was drowned) March 31, 1790, and Rufus Putnam succeeded him, and he, in turn was succeeded by Joseph Gilman. The officers in control in 1796, were Gov. St. Clair, Secretary Sargent and Judges Symmes, Gilman and Putnam. The governor and judges constituted the legislative body of the territory. They had not the power to enact laws, but they could adopt and publish such acts as they saw fit from the laws of the original thirteen states. Whatever laws they thus passed or chose, should be submitted to congress, and would remain in force, unless disapproved by congress, until a general assembly was chosen. The governor and judges did not strictly comply with the provisions of the ordinance, but enacted many new laws, and undertook to defend their actions on the ground of necessity, because they could not find laws already enacted in the thirteen states that were adapted to all of their needs. The ordinance of 1787, provided for trials by jury in all cases where demanded.

A code of laws was established in 1788 that practically covered the needs of the territory. Of these laws, only a few need be mentioned here as controlling the courts. General courts of quarter sessions of the peace were established in each county, composed of not less than three, and not more than five justices of the peace. The governor could appoint all necessary justices of the peace, and from these appointments he was directed to select five in each county to form the quorum for the court of quarter sessions.

Misdemeanors were to be tried before the justices and all other criminal trials less than capital cases, and criminal cases where imprisonment for more than one year was the punishment, were to be tried before the quarter sessions.

The county court of common pleas was established in each county to hear all civil cases. The governor was to appoint not less than three, and not more than five judges in each county to preside over this court, which should be a court of record. A single judge of the court of common pleas could hear and determine cases where the amount involved did not exceed five dollars.

A judge of a court of probate was to be appointed for each county to have charge of estates, probate wills, and appoint guardians to minors.

The general court for the territory should be presided over by the judges appointed by the president.

Marriages could be performed by judges of the general court, or of the court of common pleas, ministers of any religious society, or by the Society of Quakers in the public meetings. It was not until August 1, 1792, that justices of the peace could perform marriages. A certificate of the marriage was to be sent to the register of the county and entered on its records within three months after the marriage.

Every county should have a court house, jail and pillory, whipping post and stocks. In the jail should be separate apartments for confining debtors and criminals. A schedule of fees was fixed as compensation to the public officers, and a queer provision was attached, permitting the person to whom a fee was to be paid, to demand one quart of Indian corn as an equivalent for one cent in every fee; thus, if the fee was one dollar, the officer could demand 100 quarts of Indian corn in lieu of the money, but he could not be compelled to accept anything except specie.

An orphans' court was established in 1795, to be presided over by the justices of the court of quarter sessions. This court had some of the powers of the court of probate, but was intended to be supervisory over that court.

The office of recorder or register of deeds was established in 1795.

The common law of England was declared to be in force except as modified by statutes.

The general court and circuit courts had exclusive rights to grant divorces, and there were but two grounds for absolute divorce, adultery and impotency.

One of the judges of the supreme court was to hold a court in each of the counties of the territory, and this court was termed the circuit court. The court presided over by the judges of the supreme court, was styled the general court, and an appeal would lie from the courts of quarter sessions, and from any other court to the general court. Imprisonment for debt was permitted, but was limited unless the debt was fraudulent, or the debtor concealed his property.

These, in brief, were the laws that related to the formation of the courts that were in force at the time of the admission of Detroit to the government of the North West Territory. As has been before stated, Detroit was in the territory that was conceded to belong to the United States under the treaty of 1783, but the British continued to hold possession of it in controvention of our treaty rights. This was a constant source of annoyance to both governments, and a subject of heated discussion that occasionally lead the nations to the verge of war.

In 1794 John Jay was sent to England in order to bring about a satisfactory adjustment of the differences between the nations and the surrender of the posts still held by Great Britain.

Jay's treaty was signed Nov. 19, 1794, and was conditionally ratified by congress June 24, 1795. England agreed to withdraw all troops from within the boundaries of the United States by June 1, 1796. All settlers and traders within the United States could retain their property unmolested, and were at liberty to remain or remove from the country at pleasure. Those who remained were not to be compelled to become citizens of the United States, but were at liberty to do so if they wished. The words of the treaty on this subject are as follows:

"And they shall make and declare their election within one year after the evacuation. And all persons who shall continue there after the expiration of the

said year, without having declared their intention of remaining subjects of his Britannic majesty, shall be considered as having elected to become citizens of the United States."

The treaty could not take effect until the formal surrender of the posts, and this took place in Detroit, June 11, 1796.

The American troops took possession at once, and the rule of our federal government commenced.

Winthrop Sargent came to Detroit in August, and on the 15th of that month he organized the county of Wayne, as acting governor. An extract from a letter to Gov. St. Clair, dated at Pittsburg, Aug. 13, 1796, explains the illegality of Sargent's action in the case. He writes to Secretary Sargent:

"Yesterday I met with Captain Pierce, from Fort Washington, and by him I learned that you were gone to Detroit. Should the object of that journey be of a public nature, I have to wish that it had been not undertaken, for tomorrow I shall be in the territory, and then the powers of the governor, which devolve upon the secretary in his absence will cease, as to you, yet it may happen that both you and me are discharging the duties of that office at the same time, and, of course, the acts of one must be void."

From the above letter, it appears that St. Clair was in the territory before Aug. 15, and that consequently, the organization of Wayne County by Winthrop Sargent as acting governor, was illegal. The matter has never been called in question in any legal proceedings, and it is difficult to determine what would have been the effect of such a challenge if one had been made.

St. Clair did not wish to organize the new county, because there had been no appropriation by the general government to provide for the extension of the civil authority, although President Washington had sent to congress a special message on the subject. Sargent, however, organized the new county, named it after Gen. "Mad" Anthony Wayne, and selected Detroit as the county seat. The county was the largest in existence. It included the northern parts of Ohio, Indiana and Illinois, all of Michigan and Wisconsin, extending from the Cuyahoga river on the east, and westward as far as

the source of the rivers that flowed into Lake Michigan.

The following is the full text of that proclamation:

**Proclamation.**

BY WINTHROP SARGENT.

*Acting as Governor of the Territory of the United States Northwest of the River Ohio.*

TO ALL PERSONS TO WHOM THESE SHALL COME:

Greeting: Whereas, by an ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven, for the settlement of the territory of the United States, Northwest of the river Ohio, it is directed that for the due execution of process civil and criminal, the governor shall make proper divisions of the said territory and proceed from time to time, as circumstances may require to lay out the same in counties and townships—and whereas, it appearing to me expedient that a new county should immediately be erected to include the settlement of Detroit, etc., I do hereby ordain and order, that all and singular, the lands lying and being within the following boundaries, viz:—beginning at the mouth of the Cuyahoga river upon Lake Erie, and with the said river to the portage between it and the Tuscaruwa branch of the Muskingum—thence down the said branch to the Forks of the carrying place above Fort Lawrence—thence by a west line to the eastern boundary of Hamilton County (which branch is a due north line from the lower Shawouese Town, upon the Sciota river) thence by a line west northerly to the southern part of the portage between the Miamis of the Ohio, and the St. Mary's river—thence by a line also west northerly to the southwestern part of the portage between the Wabash and the Miamis of Lake Erie, where Fort Wayne now stands—thence by a line west northerly to the most southern part of Lake Michigan—thence along the western shores of the same, to the northwest part thereof (including the lands upon the streams emptying into the said lake) thence by a due North line to the territorial Boundary in Lake Superior, and with the said Boundary through lakes Huron, St. Clair and Erie to the mouth of Cuyahoga river, the place of Beginning—shall be a

county named, and henceforth to be styled the County of Wayne—which said County shall have and enjoy all and singular, the jurisdiction, rights, liberties, privileges, and immunities whatsoever to a county appertaining and which any other county that now is or may be erected and laid out shall or ought to enjoy conformable to the ordinances of Congress before mentioned.

In witness whereof, I have hereunto set my hand and affixed the seal of the territory this fifteenth day of August, in the twenty-first year of the Independence of the United States, A. D., one thousand seven hundred and ninety six.

WINTHROP SARGENT.

The historian Lanman says that the first court was opened by proclamation December 10, 1796, and the commission announcing the judges and civil officers read, appointing Louis Beaufait senior justice, and James May, Charles Girardin, Patrick McNiff and Nathaniel Williams associate justices, and George McDougall, sheriff. It is certain that Mr. Lanman is in error in the date of the appointment of some of these officers. Nearly all of the earlier records have been so carelessly used that they have disappeared—only a few remain.

The earliest remaining file in the court of common pleas in Detroit is David Acheron vs. John Bowyer, lieutenant in the army, and the case was begun Oct. 10, 1796, showing that the judges must have been appointed before that date. The business of the court of common pleas soon fell into the hands of two of the justices, Louis Beaufait, "president of the court of common pleas," and James May, associate justice. Among the appointments made at this time were Herman Eberts, coroner, and Peter Audrain, prothonotary, clerk and judge of probate.

In a series of articles in The Detroit News in 1895, written by Mr. Robert Ross, is a biographical sketch of Herman Eberts. He was born in Augsburg in 1753, studied medicine, and came to America as a surgeon with a Hessian regiment. He married Marie J. B. Francoise Coutillier about 1780. He came

in Detroit in 1791, and remained here after Jay's treaty took effect, and became naturalized by the terms of that treaty. On the 23d of December, 1796, George McDougall, sheriff, and Herman Eberts, coroner, entered into an agreement by which Eberts agreed to perform, for one year, all the duties of sheriff, and to relieve McDougall. Eberts was to receive as compensation for his work two-thirds of the fees of the office, viz.: the taxable costs of each suit; and he was further to save McDougall harmless from damages for escapes of prisoners in his custody and for all moneys he might receive as sheriff. To secure McDougall for thus relinquishing his office, Eberts gave him a bond for \$4,000, with Robert Gouie and Charles F. Girardin as sureties. During the year above mentioned Eberts signs himself as "acting sheriff," but at the end of that time he signs, "High Sheriff of Wayne County." It is probable that he received the appointment of sheriff in 1797.

It is unfortunate that the early records have been so dissipated that even the official appointments have to be guessed at or extracted from disconnected documents.

The following paper, signed by both the sheriff and the acting sheriff, shows the condition of one of the public buildings in the village:

Continued.



This story is a romance, and the characters cover about half the globe in their wanderings. It has to do, among other things, with a professional gambler, who was in some respects better and in other respects worse than the average man. He had a beautiful home life, having married a fine woman who had learned to love him before she knew his occupation. Her good influence finally reforms him. He steals some money, goes out to the gold mines, gets rich, returns that which he had stolen, and later does considerable good with his fortune.

"The Poplars," by Francis A. Taulman. Cochrane Publishing Company, Tribune Building, New York City.

Mrs. Eunice Gibbs Allyn is a prominent lit-

erary and club woman of Iowa. She has written for the press since her childhood days, but much of the time has used a *nom-de-plume*, thereby losing much of prestige that is her due. She has been at times correspondent of papers in New York, Chicago, St. Louis and small places. Has held positions as associate editor and manager of departments in weekly and daily papers. In addition to short stories, correspondence, essays, poems, short plays, and papers upon topics of the day, she has published one novel "One Thousand Smiles" - has another about ready for the press, and several mapped out for working upon.

While loving all animals, she believes the domestic cat less understood than any other, and through her own experience and that of her friends, has been led to tell the story of "The Cat's Convention,"—cats that have really lived and stories that are really true.

In addition to all else, and principally, Mrs. Allyn has been a homemaker, which has lessened by many times the probable products of her pen and brush.

Cochrane Publishing Co., Tribune Building, New York City.

The Daysman, published by The Cochrane Publishing Company of New York, is a story of mining life in Arizona, politics, love and other things thrown together in an attempt to make an interesting story. The subject is a good one, but more care could have been exercised in making a smooth running story. However, The Daysman will be enjoyed by many readers.

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# History of Detroit and the Great Lake States

An Authoritative Record of Early Events in Canada  
and the Great Lake Region.

by C. M. BURTON

## ARTICLE XVIII.



Territory Northwest of the River Ohio,  
Wayne County, &c.

December Term, 24th, 1796.

Herman Eberts, Esq., Acting Sheriff for George McDougall, Esq., High Sheriff in and over the said County of Wayne, comes and protests against the Strength and the insufficiency of the Jail of the County, that where the Escape of any Prisoner in a civil or quitam Action shall happen through the insufficiency of the Jail, that the said acting Sheriff or Jailer, the Sheriff of the County of Wayne, may be indemnified by Order from the Honorable Court of Common Pleas in the aforesaid County, and prays that this may be filed as of record in the Clerk's Office in and for the said County of Wayne.

HERMAN EBERTS, Commissioner,  
and Acting Sheriff for

GEORGE MCDUGALL, ESQ., and  
High Sheriff of the County of Wayne.

The most important official at this time was Peter Audrain. He was born in France in 1725, and came to Pennsylvania during the Revolutionary war. He renounced his allegiance to King George III and took the oath to support the Commonwealth of Pennsylvania and became a citizen of the United States October 2, 1781. He lived for a time in Pittsburg. It is not known when or where he learned to read or write the English language, but probably some years before he came to Detroit: for upon his arrival he was appointed prothonotary and judge of probate, and the early records of the settlement, which

are nearly all in his handwriting, show a great familiarity with the English language for a foreigner, and his handwriting is a wonder to the student who reads it today. His peculiar small penmanship is never forgotten when once seen, and the many pages of the records kept by him are as clear as print, and nearly as perfect in formation as copper plate. The wonder is how a person with a quill pen—such as was in use in his time—could write so beautifully.

Mr. Audrain's wife was a Margaret Moore, and it is probable that he was married before coming to Detroit, for neither her marriage nor death record is to be found in the register of Ste. Anne. There is a fragment of the journal of Audrain, printed in the "Michigan Pioneer and Historical Collections," in Vol. 8, which indicates that he was in Pittsburg in July, 1796, and must have a few days later accompanied Gen. Wayne's army on the march to Detroit. Wherever he journeyed, he was received as a guest, which indicates that he occupied some place of importance with the army corps, though not an official position.

On the 27th day of July, 1796, Gen. Wayne met Secretary Winthrop Sargent at Greenville, and they together proceeded to Detroit, and there established, as we have seen, Wayne County and the county courts. The office of prothonotary was of more real importance than any other in the new country—at least Mr. Audrain made the office of importance, for he kept all the records, was



register of deeds, judge of probate, clerk of the courts, and general scrivener for the community.

He retained offices of importance nearly all his life, but in his old age—when he was 94 years of age—the lawyers complained that the records of the Supreme Court were in great disorder through his neglect, and he was removed in 1819. He died the following year, Oct. 6, 1820.

The Probate Court was established in the North West Territory by an act of August 30, 1788, providing for the appointment of one judge of probate for each county.

The Orphans Court, to which reference is made in our early territorial records, was established by an act of June 16, 1795. The justices of the court of quarter sessions of the peace were empowered to hold this court.

The duty of the court was to oversee and have control of estates in general. The judge of probate was to submit copies of the records of his office to the Orphans Court for examination. The court had supervision over minors and their estates. It had authority to bind a minor out to learn a trade. It could probate wills and grant letters of administration. Its powers were very large, but practically it was nearly useless, as very little was done under it.

The Recorder's office was established under an act of June 18, 1795. It was opened for business on the tenth day of September, 1796, and the first deed recorded was from Marie Petit, widow of Hiacinthe Deaitre, to Laurent Maure, of a farm on the river Huron (now called Clinton river), and the consideration was £130, New York currency. Audrain was the prothonotary, or register, or clerk who recorded this deed and all other conveyances for some years.

The judge of probate was not required by law to keep a calendar, and Audrain kept none. The manner of numbering estates was a device of later times, and when the system was inaugurated the old files were gone over, arranged and numbered. In the meantime, many files were entirely lost, and many papers were missing from other cases, so that the

first files are in a confusion that can never be straightened out.

The first case in the probate court is the estate of Amos Weston. The date of his death does not appear, but the first and only paper in the file is the bond of John Askin as administrator, filed Aug. 23, 1797, and on the same day Askin was appointed administrator of the estate of George Knaggs.

The court of common pleas, which was held in Detroit under the British occupation, bore the same name as the court which was subsequently organized under American rule. The treaty of 1794 made no mention of the continuing of suits commenced under Canadian laws after the transfer of government in pursuance of that treaty, but it appears that the citizens were willing to have these causes tried under the new government, the same as if originally commenced there.

It cannot be said that this was the universal custom, but there are some cases that indicate that this was the course pursued.

No statute of limitation of actions for the recovery of debts has been found, and there are several cases where obligations of many years' standing—ten to twenty years old—were sued in the first territorial courts. The only lawyers whose names are found in these earliest records are Ezra F. Freeman, John S. Wiles, Solomon Sibley and Elijah Brush. Walter Roe, a lawyer under the Canadian regime, had moved to Sandwich before 1796.

The probate court for the Western District (Canada) went into operation before the "Exodus." The records of the court, now in Windsor, Ontario, show that but two estates were opened before June 11, 1796. The first is that of Collin Andrews and the second, William Macomb. Both of these men lived and died in Detroit. The probate files are missing, but the first book of records show the fact that the estates were opened.

Macomb left a will which was admitted to probate there, and was subsequently probated in Wayne County, as he left a large estate in the United

States. In neither case were the proceedings transferred from the Canadian court to the Michigan court.

### NATURALIZATION UNDER JAY'S TREATY.

The transfer of allegiance in pursuance of the terms of Jay's treaty, created a peculiar state of affairs at Detroit that is difficult to understand and still more difficult to explain. The treaty provided a method by which persons might become citizens of the United States, but no mode was pointed out by which they could stay in Detroit and remain British subjects. Only one person, so far as the records show, took the oath of allegiance. This was William McClure, gentleman, who took the oath "as a residenter of Detroit" in conformity to the provisions of Jay's treaty. It was not, however, at this time supposed to be necessary to take any formal action whatever in order to become naturalized. It was decided by our state supreme court, in the case of Crane against Reeder, that if a person resided in Detroit at the time this treaty took effect, and did not file a remonstrance against becoming a citizen, he became naturalized by virtue of the treaty.

There was considerable discussion about the proper method to be followed by those who wished to remain British subjects. As the year passed by, this subject was more and more discussed. A faction was rapidly growing that hesitated to become naturalized. The leader in this faction was John Askin, whose name has been frequently mentioned in the preceding pages. Askin drew up statements or notices that the signers did not wish to become citizens of the United States, but desired to remain subjects of Great Britain, and he took these papers around to the people living in the neighborhood of Detroit, and succeeded in getting many of them to sign. He then sent copies of the lists to Peter Russell, who was administrator of Upper Canada in the absence of the governor, and gave the originals to Peter Audrain to be recorded in his office.

One peculiarity of these statements is, that this land—Detroit and the adjacent territory—had been the property of the

the Jay treaty, our government recognized the British occupancy, and admitted that the inhabitants were British subjects.

The lists contain the names of many persons who never seriously intended to remain the subjects of Great Britain. They and their descendants lived and died in Detroit. Some of the signers, like Angus MacIntosh, Richard Pattinson, George Sharp, John Askin, Alexander Duff, William Harffy, William Hands and others, moved across the river, and while they continued to transact business on this side, they remained during life, and died, subjects of their mother country.

Some of the former residents, like Alexander McKee, Simon Girty and Matthew Elliott, natives of the United States, had, by their actions in the revolution, so thoroughly served the ties that bound them to their own country, that they moved over to Canada and, like a man without a country, sought those shores to protect themselves from the outraged feelings of their former countrymen. Their names are not in the lists as they were not in Detroit when the treaty took effect.

There were four of these declarations numerous signed and filed for record with the register, Audrain. They are not exactly alike, but the copy of one, given herewith, contains the substance of them all:

It reads as follows:

DECLARATION OF BRITISH SUBJECTS.

Detroit, 21st June, 1797.

To Peter Audrain, Esq.,

Sir:—Whereas the 2nd Article of the Treaty of Amity, Commerce and Navigation subsisting between his Britanic Majesty, and the United States of America, stipulates "That all persons who shall remain there (viz., within the Territory of the United States) after the expiration of the said, to wit., twelve months after the evacuation of the posts, without having declared their intentions of remaining subjects of his Britanic Majesty, shall be considered as having elected to become citizens of the United States. The subscribers presuming themselves contemplated under this article of the treaty, and in conformity to by this stipulation, do declare that they have

made their election, which is to continue subjects of his Britanic Majesty, within the Territory of the United States under the conditions of the said Treaty of Amity, Commerce and Navigation.

The subscribers, Sir, desirous to give necessary publicity to their declaration, and the Treaty being silent on the mode of communicating their intentions to the government of the United States, have presumed to address it to you as an officer belonging to a public department of the government. If there be no impropriety, they also wish that it may become a matter of record, and with great respect, have the honor to be

Sir, Your very humble servant,

D. McCrae,	Robert Innis,
Jonathan Shieffelin,	Richard Pattinson,
William Forsith,	Robert Grant,
Pierre Galwino,	John Martin,
William Flemin,	Francois Bertrand,
Pierre Lanoux,	Hugh Heward,
Louis Moore,	Charle Chovin,
James Condon,	James Donaldson,
Pierre Delorme,	Redmond Condon,
Alex. Harson,	Joseph Bernard,
Ch. Poupard,	John Grant,
Nicolas Boyer,	John Little,
Benoite Chapoton,	James Robital,
Gabriel Huno,	John Fearson,
Antoine Chauvin,	James Cartwright,
Jean Bte. Montroi,	Robert Forsyth,
Francois Primo,	Jean Bte Petre,
Thomas Green,	Conrad Showles,
Charles Petre,	Amable Latour,
James McIntosh,	Peter Blanch,
Alexr. Duff,	Alexis Cerait,
Angus Mackintosh,	Richard Donovan,
Jonathan Nelson,	Samuel Eddy,
J. Bt. Barthe, fils,	Baptiste Rousson,
John Reulo,	Augustain Amelle,
Wm. Smith,	George Sharp,
John Askin Junr,	James Leith,
Robert Gouie,	James Guthrie,
John McKoigan,	George Meldrum,
Jean Langloi,	Robt. Nichol,
J. Partier benoe,	Mathew Dolson,
Simon Drouillard,	Robert McDougall,
Jean Bapt. Bernard,	Jos. Borrelle, Pere,
Alexy Borrel, fils,	Thomas Smith,
William Mickle,	John Daine,
R. McDonnell,	Charles Roque,
John Clark,	William Hands,
Baptiste Boete,	

George Jacob Rudhart,	
Basile Durocher,	Joseph Maton,
Richard Money,	Jno. Whitehead,
William Baker,	William Mills,
John McDonnell,	Isaac Ganize, Pere,
James Vincent,	
Baptiste Telemaire dit St. Louis,	
Isaac Gagnier, fils,	
Dominique Drouillard,	
Phillip Belliegry,	William Harffy.
Laurent Maure,	William Thorn.
John Askin, Senr.	A. Iredell,
Alex. Maissonville, Junr.,	
William Park,	John Cain,
John McGregor,	John Wheaton,
James McGregor,	Pierre Valle,
Louis Barthy,	Samuel Edge,
John Anderson,	Louis Courture,
James Fraser,	James Anderson,
Francois Rasette,	John Lagord,
Pierre Rell,	Batiste Monmirell,
Joseph Borrel, fils,	Francois Lemoine,
Noel Delisle,	Baptiste Drouillard,
	Joseph Gremar."

The actions of Askin in procuring the notices above mentioned, had made him an object of suspicion to the authorities. He was a man of great influence—a trader on a large scale—an officer in the Canadian militia, and to some extent, the "Warwick" of the west, for if he did not hold important offices, he dictated who should hold them.

The peace that was by the treaty declared to exist, between the United States and England, was more a peace of the mouth, than of the heart, for each country was suspicious of the other. War existed between France and England, and the French government had sent emissaries through the United States to sound the French residing there, or in Upper Canada, on their feelings toward England. It was thought that an effort would be made to rouse the French Canadians to a rebellion. Both the United States and Canada were excited over this affair. Francis Baby, deputy lieutenant for the county of Essex, then residing at Sandwich, was hastily called to Niagara, the seat of government, and from that place, he issued a secret circular of which the following is a copy:

"Niagara, October 23, 1796.

"Intelligence of a very serious nature having reached me from lower Canada, which may require the exertion of his majesty's faithful subjects in the province, I am to request that you will recommend it to the officers and soldiers of militia battalions and independent companies under your command to provide themselves with proper arms, and a sufficiency of ammunition forthwith, and you will be pleased to make a report to me without loss of time of the number of muskets and quantity of ammunition which you may want to supply those who are absolutely incapable from poverty or other causes to supply themselves.

FRANCIS BABY,  
Dept. Lt. C. E."

Mr. Askin, then living in Detroit, was lieutenant-colonel of the Canadian militia, and to him, one of these orders was directed. He undertook the collection of the details of the militia as requested, and sent out orders to all captains and other militia officers to report the state of the companies, to him at once. Many of these officers reported as requested, and copies of their reports were forwarded to Niagara. The conduct of Askin would have been subject to censure on the part of our government, if it had ever been discovered. It is even possible that it might be considered treasonable. It is certain that suspicion rested on him, but it is very probable that most of his actions were concealed from the authorities.

It was at this time also, that the papers prepared by Askin for those who did not wish to become citizens of the United States, were given to Audrain to be recorded. These petitions or certificates caused a counter petition to be drawn up and forwarded to Secretary Winthrop Sargent, as follows:

Detroit, 12 July, 1797.

Sir—We, the undersigned, magistrates and sheriff of Wayne County, in the territory of the United States of America, impressed with every degree of attachment to the government of the United States and most sincere wishers for the safety of this country, and its inhabitants, have sincerely to regret its present situation, and for its safety, disagreeable apprehensions from the dangers

that at present menace its tranquility from an approaching enemy as well as from increasing and internal factions.

Twelve months ago we knew of no more than ten of the inhabitants that were avowed British subjects, they remaining here for one year after the evacuation of the place by the British, during that period, they, with some other emissaries, found means by indirect insinuations and circulating papers, to corrupt the minds of the inhabitants, and alienated their affections from the government of the states to such a degree that it was with difficulty that the sheriff could procure a jury of real citizens to attend the last sessions, or bailiffs to do their duty. Some scores (it is said some hundreds) of the inhabitants having signed the said circulating papers, declaring themselves British subjects, which gives us reason to fear that little or no dependence can be put on the militia of the county if called upon. This being truly the state of the country, we feel the greatest anxiety for its safety. We, therefore, conceive it our duty to transmit you every part of our apprehensions, and the causes exciting them, hoping that you will see the propriety of vesting sufficient power in the commander-in-chief here, or the commanding officer for the time being, to take such steps as may check the progress of the present prevailing faction and prevent a further complaint of the inhabitants, we, by experience finding it out of the power of the civil authority at present to do it.

JAMES ABBOTT, JR.,  
JAMES MAY,  
NATHAN WILLIAMS,  
CHARLES F. GIRARDIN,  
JOSEPH VOYER,  
PATRICK MCNIFF,  
HERMAN EBERTS,  
JOHN DODMEAD.

Esqrs.

JONCAIRE CHABERT,  
ANTOINE BEAUCHEN,  
ROBERT ABBOTT,  
DANIEL SAWYER,

These were exciting times in Detroit. A newspaper in the place at that time, would have been filled with interesting reading matter of local events. But no such paper existed, and the history of



the times must be collected from a variety of sources, and be pieced together to make a story of the times. It cannot be wondered at, if some of the important events are omitted, because we do not know where to look for the information. The French government, through Gen. Collot, was striving to create dissensions among the French of Canada, and had visited the Ohio country, and had planned to visit Detroit. He had procured a map of the surrounding country, and had a chart made of the Detroit river, and the stream sounded for his use for military purposes. That he did not come to Detroit was because he was afraid of personal violence from both the Americans and English.

An attempt was made about the same time to obtain the entire northern part of Ohio, west of the Cuyahoga river (Cleveland) for John Askin and others who claimed ownership under deeds from Indian tribes.\* They likewise set up claim under similar conveyances to the lands along the Miami (Maumee) river, and were urging their claims before members of congress and others of influence in the east.

The same John Askin, with Ebenezer Allen and others, prepared a petition to purchase the entire lower peninsula of Michigan, and, believing that they could obtain their wishes by corrupting congress, they undertook to bribe some of its members. In this they were detected, their plans disclosed, and failure followed as a matter of course. The men who were pushing the affair before Congress, at Philadelphia, were arrested and imprisoned.†

The feelings between the American and British soldiers stationed along the borders of the Detroit river, were not the most cordial, and deserters were passing from one side to the other to the annoyance of the authorities on both sides.

All of these affairs were coming together to make up a period of excitement never exceeded in the history of the village before that time.

With most of these matters, we have nothing to do here, for we are confining ourselves as much as possible, to the legal affairs of the post, and only touch-

ing on these outside matters sufficiently to form a connected story. Many of these events, also, have been written about before, and what is here detailed is mostly taken from heretofore unpublished manuscripts.

In the orderly books kept at the post by Gen. James Wilkinson, are evidences of disaffection among the troops, promoted, possibly by Askin's petition. Under date of July 12, is the following "general order": "The desertion of the troops may be ascribed chiefly to the scenes of drunkenness, produced by the unrestrained sales of liquor which have been permitted, and to the seductive arts of persons ill-disposed to the government of the United States. To remedy evils replete with the consequences so destructive to the national interests, and so subversive of subordination and discipline, all persons are hereby prohibited selling liquor of any kind to the troops, except under the written permission of Lieut.-Col. Commandant Strong." "Any person detected in attempting to inveigle a soldier from his duty, or in advising him to desert, shall receive 50 lashes and be drummed out of the fortifications."

The continued desertions from the American and British troops occasioned the following additional order on the same subject on July 15:

"The soldier who deserts his colors, of whatever country or nation, forfeits the protection of all good men; to discourage so foul an offense the commander-in-chief orders all deserters from the corps of his Britannic majesty to depart the town in 24 hours. He forbids positively the enlisting of deserters from the troops of any nation, and he assures all persons of this character, that they will find no asylum within the sphere of his authority. But as it has been represented to him, that several privates seduced from the service of the United States when in a state of intoxication, by designing vicious persons, have repented of the foul transgression and are deterred from returning to duty by the fear of punishment only—now to

\*See A Chapter in the History of Cleveland, where this deed of 3,000,000 acres is given in full. The writer has several deeds from the Indians covering great tracts of land in Ohio and Michigan.

†The story is most fully related in the Inlander.



give all absentees a fair opportunity of testifying their contrition, and to make atonement for their crimes, he hereby offers full pardon to all such as may surrender themselves to some officer of the troops of the United States within 30 days from these presents."\*

Gen. Wilkinson, on the 16th day of July sent a long letter to the magistrates of the western district of Canada, requesting them to prevent desertions from the American army as far as possible, and to assist him in maintaining the standing of his army, as well as of their own in opposition to their common foe—the French—and to preserve order along the border.

The Canadian magistrates in their reply, offered a hearty co-operation with Gen. Wilkinson, so far as their powers would permit, and stated that the general's communication should at once be laid before the administrator of the province.

Public excitement was running strongly against Mr. Askin and his party, and a few days later, he was arrested, or was served with a summons, as the commencement of a suit against him. Unfortunately the files of this suit have been lost, or have not yet come to light. A letter from Mr. Askin to David W. Smith, gives as much information on the subject as can be ascertained at present.

It reads as follows:

"Detroit, Aug. 26, 1797.

"My Dear Sir.—Since writing to you, I have been served with a summons, the copy of which I enclose, and beg you will make it known to his honor, the administrator, so that I may be furnished with advice how to act before the general court is held here, which I learn is to be soon. The paper alluded to—I sent you a copy of it—contained the names of a number of people who made their election to continue British subjects and carried it to the recorder to have it enregistered, for which much trouble and interruption is given to me. I have never before been called before the court about this matter and asked if I did so or not. So clear do I feel that

I had not only a right to do so, but also even advise subjects to continue under the British government (which I, however, did not meddle in) had I been so disposed that I most certainly acknowledged not only my doing so, but that I was perfectly right, and that it was in conformity to the treaty."

Askin's letter was given to the Hon. Peter Russell, who at that time was performing the duties of governor of Upper Canada, in the absence of the governor, and this reply was sent:

West Niagara, 5th Sept., 1797.

Sir:—Mr. Smith has just sent to me your letter of the 26th ult., and the copy of the summons for your appearance before the General Quarter Session of the County of Wayne, and a copy of the letter from the British inhabitants of Detroit to Peter Andrain, Esq.

I am extremely sorry that I do not feel myself competent to give you the advice you desire, as your place of residence is without the power of my jurisdiction, nor do I see any possibility of even the British minister's interference until you are able to state to his excellency the nature of the offense you have given to the government of the United States; and the sort of notice which has been taken of it. This I presume to advise you to do without loss of time immediately from Detroit as the quickest mode of communicating with his excellency,

I am, sir, your most obedient humble servant,

PETER RUSSELL.

JOHN ASKIN, Esq.,

British Merchant at Detroit.

Apparently Askin intended at this time to remove to Canada, for he obtained permission from Mr. Selby and Col. McKee to remove his goods into a house belonging to Col. McKee, at Sandwich, which house was then partly occupied by a Mr. Wheaton. However, the change in the aspect in the affairs of Detroit, induced him to remain in that place, and face the storm, and it was not until several years later, that he finally removed to the home where he died, a short distance above the modern Walkerville, at a place by him called Strabane.

The summons served on Askin was

\*These orderly books have been printed by the Mich. Hist. Soc. since this paper was originally prepared.

returnable before the court of quarter sessions, but a case of so much importance would ultimately find its way to the circuit court or the general court. The two latter courts were presided over by the territorial judges appointed by the president. One of the judges was required to hold court in Detroit, once each year, and the court presided over by the single judge, was called the circuit court, and when the three judges sat en banc it was termed the general court. Outside of the local attorneys above named, the lawyer most famous through the northwest, was Jacob Burnet, of Cincinnati. Judge Burnet came to Detroit at every session of the circuit court held here before the admission of Ohio to statehood in 1802. The governor, Arthur St. Clair, was also apparently known as an attorney at law, though none of the biographies assert that he had ever studied law. Askin now sought to enlist both of these men in his interest, by employing them. He sent a confidential clerk, Robert Nicol, to Cincinnati, with a retainer for both St. Clair and Burnet. Burnet was not at home, and consequently was not seen by Nicol, but a retainer was left for him with the governor, and to the latter a full statement of the situation was made by Nicol. A letter from Gov. St. Clair was borne by Nicol to Mr. Askin that assisted him getting out of his difficulty. He was also greatly assisted by Mr. Elijah Brush, who subsequently married Askin's daughter, Adelaide. Gov. St. Clair's letter reads as follows:

Cincinnati, Sept. 23, 1797.

Dear Sir:—I had the pleasure of receiving yours of the 29th ultimo, by Mr. Nicol; I am extremely sorry for the want of harmony which is but too evident amongst you, but I flatter myself that all will yet be right. I have refused your retainer, fearful that the business to which it relates, may oblige me to act in my official capacity, at the same time I would observe that I think you need not give yourself any uneas-

iness about the affair. Mr. Nicol had instructions to retain Mr. Burnet. He has accordingly left a fee with me for that purpose, as he is not at present here. If I shall be able, and there is any necessity, I will assist him with pleasure, though the paper alluded to as containing the declaration of your intention of remaining British subjects (as at present advised) there will be little occasion of trouble.

I am, dear sir, yours respectfully,  
A. ST. CLAIR.

A short time after this, Mr. Askin's name was placed upon the United Empire list as one of the Canadian patriots of the revolution, and at a still later date (February, 1798) he was granted a license by Winthrop Sargent, acting governor, to maintain a ferry across the river at Detroit, thus showing that he retained the good will of the authorities on both sides of the river.

I have found some evidences of another interesting episode in the local history early in the year 1797. Not being able fully to explain the affair at present I can give only the substance of the papers that have come into my possession relating to James May, one of the judges.

It appears that some one had posted a notice or proclamation that was considered a libel on the court. As there was no printing press at Detroit, or in its neighborhood, this notice must have been in writing, and only a few copies could have been circulated. Judge May accused William Smith and Robert Forsyth of publishing the libel or having a hand in it. Both of these men signed the declaration, which John Askin passed around, declining to become citizens of the United States. Both men asserted their innocence of the crime of libeling Judge May, and resolved to make him prove his charge, or answer for it. Each wrote a letter to the judge, and as they are nearly alike, one only will be quoted as follows:

(To be Continued)

# History of Detroit and the Great Lake States

An Authoritative Record of Early Events in Canada  
and the Great Lake Region.

by C. M. BURTON.

## ARTICLE XXIV.

"Detroit, Jany. 7, 1797.

"Sir:—I have been informed that you have taken the liberty of publicly accusing me as an accomplice in a libel lately published at this place. I insist immediately to know your reasons for that presumption, otherwise I must take measures to clear my character in the eyes of those you were pleased to prejudice it in.

"ROBERT FORSYTH.

"JAMES MAY, ESQ.,  
Detroit."

In addition, Smith requested the judge to meet him at Mr. Dodomead's in the evening, to settle the matter, and ended his letter with a statement that he would wait at Dodomead's till 8 o'clock in the evening.

Dodomead's was a famous resort-inn, saloon, boarding house, whatever it might be termed—all three, if you please—situated on Ste. Anne street, near the southeast corner of the present Jefferson avenue and Shelby street. Ste. Anne street was very narrow at this point—not more than 16 to 20 feet wide—and the house of John Dodomead was located within the limits of the present Jefferson avenue. It was here (in the second story) that the courts were held in later times, and the place was the rendezvous for all the citizens who wished to spend the evening in convivial company. At this time, the courts were held in the house of Thomas Cox.

Judge May was a large, heavy man, weighing more than 300 pounds. His avoirdupois was not in excess of his dignity as a judge, and he considered it

beneath his official position to reply either to Forsyth or Smith. If he was in the habit of visiting Dodomead's, he abstained this time, even at the risk of displeasing Mr. Smith. Smith was on hand at the appointed hour, and not finding the judge, he thought the matter over for a night, and the next morning sent him the following note:

"Sir:—I was not a little surprised at your non-appearance last night, at Mr. Dodomead's per my request to clear up the aspersion you have unjustly said against me, that I was the writer of the libel taking off characters at the ball of the 28th ult., which unjust assertion of yours, I beg to have done away between this and 12 o'clock, as my character is hurt by it. Any place you will appoint between the hours before mentioned (excepting your own house), I shall repair to with a couple of friends. As I would be sorry to doubt your being a gentleman, I hope you will pay attention to this letter, if not, I shall take the liberty of exposing this, and former letters to public sight, that your character may be seen into, my situation at present not permitting me to take any further action.

WILLIAM SMITH,

Saturday morning, 10 o'clock.

JAMES MAY, ESQ.

This might have been accepted as a challenge to a field of honor—not by any means the last of such challenges that were sent and accepted in Detroit. It was not, however, accepted by Judge May, and both parties lived in Detroit many years after this event had become only a recollection.

As an evidence that there was no

exemption from levy and sale on execution, there is a paper of some interest signed by twelve men who might have been chosen as appraisers, or as a jury. Mathew Dolson, whose name has been mentioned above, sued out an execution against the property of his debtor, John Embrow or Hembrow. The report of this jury of inquiry is as follows:

"Detroit, Feb. 16, 1799.

"We, the undersigned jury, are of the opinion that the house of John Hembrow, is worth the sum of twenty-seven pounds, four shillings and eight pence, equal to sixty-eight dollars and eight cents, which will be more than sufficient to pay the execution of Mathew Dolson against the said Hembrow, agreeable to law.

William Winslow,	William Brown,
Matthew Donovan,	Hugh Callahan,
Charles Curry,	George Meldrum,
Israel Ruland,	Robert Gowie,
F. O. Bellecour,	John Grier,
J. Bte. Pelletier,	J. Harrison."

It will be noticed that the value of the land is not taken into account in the above appraisal, and it will also be noticed that the names of several of the above jurors are in the list of persons who refused to become citizens in 1797:

The ordinance of 1787 had provided that when there were 5,000 free male inhabitants in the district, and the governor had proof of that fact, a general assembly could be elected with representatives from each county. The legislature should then consist of a governor, council and house of representatives. Ten members were to be elected for the council and their names sent to congress and that body should select five names from the list to serve as members of the territorial council. For the lower house, a member should be elected for every 500 free male inhabitants.

Until this change in the form of government—second grade, it was called—the governor and the judges had been the legislative body. As already stated, the legislative body in 1796, consisted of Gov. St. Clair and Judges Symmes, Turner and Putnam. In that year, Putnam resigned to become surveyor-general, and Joseph Gilman was appointed in his

place, Dec. 22. The next year Judge Turner resigned, and he was succeeded by Return Jonathan Meigs, who was appointed February 12, 1798. It is said that Symmes and Meigs held court in Detroit but there never was a general court held here—that is, a court where all three judges presided at the same time. There was no further change in the office of these judges, until after admission of Ohio in 1803. Gov. St. Clair remained in that office until his removal in 1802, and from that date, Charles Willing Byrd, secretary, acted as governor until the territory of Indiana was formed.

The only laws published by the governor and judges after Michigan became de facto a part of the northwest territory, are included in a little volume of 30 pages printed at the time, and are 10 in number. They are as follows:

1. Providing for the formation of corporations.
2. Punishing for maiming.
3. Vesting powers in justices of the peace in criminal cases.
4. Distributing estates of deceased persons.
5. Improving breed of horses.
6. Mode of procedure in civil cases.
7. Fixing fees of officers.
8. Taxing unimproved real estate.
9. Acknowledgment of deeds.

Gal 9—Gateway

J I H M

10. Establishing a land office.

The above are all the laws published, but in Chase's statutes is another act, repealing a former act of the same legislative body.

None of the above acts are of any great importance to Detroit, save, perhaps, No. 3, which gave justices of the peace the right to punish by fine, all persons found guilty of assault and battery, and to arrest and hold to the higher court, affrayers, rioters and disturbers of the peace; No. 8, which provided that all unimproved lands in the territory should be divided into three classes or grades, according to quality, and should pay a tax as follows: First grade, 30 cents; second grade, 20 cents, and third grade 10 cents for each 100 acres. In case the taxes were not paid, the tax collector was authorized to sell



sufficient of the lands to pay the assessment. In pursuance of this law, a list of property owners was made out, with the quantity of lands owned by each person, and it is to this list that we are now enabled to refer to determine the inhabitants of Wayne County in 1802. The lands were not described in the tax roll, and there is no record of any sale of land until 1827. From that date the lands have always been sold if the taxes levied on them have not been paid.

The first general assembly of the northwest territory met at Cincinnati, Sept. 16, 1799. The members of the house of representatives sent from Detroit were Solomon Sibley, Jacob Visger, and Charles Francois Chabert de Joncaire. There was a considerable trouble in Detroit over the election of these men, and the first election was declared illegal, and a new election held as a consequence.

The first act of the assembly was to re-enact nearly all of the laws that had been passed by the governor and judges. This was done, as the acts recite, because some questions had been raised as to their legality, and it was thought best to confirm and enforce them.

The second session of the assembly met at Chillicothe, Nov. 3, 1800, and continued till December 9, following. At this session, under the title "An act to regulate county levies," there is a provision for the appointment of an interpreter of the French language to be employed in the courts of Wayne county. It was further provided in this act that all lands in Wayne County claimed under Indian deeds, should be exempt from taxation. This provision was made because the legislature refused to recognize the titles as valid, and insisted that these lands still belonged to the United States government.

The legislature divided the entire territory into districts for the purposes of holding the next general election. In this division, Wayne County had three districts. The division was to be made by the court of general quarter sessions of the peace. The manner of holding elections was as follows: A house should be chosen in each district as near the center of the district as possible, as a polling booth. The poll should be

opened at 10 o'clock and close at 5 o'clock. The clerks of election should be chosen by those present at the booth one hour before the voting begun. The voting was by ballot, and in other respects, the election proceeded very much as at the present day.

One or more of the judges of the general court, should hold a circuit court in Detroit each year on the third Tuesday of May, and appeals could be had to this court from inferior courts.

Upon the formation of Indiana territory, the representatives from that district who were members of the assembly, ceased to hold office, and their places in the upper house were filled by congress. Thus Solomon Sibley became a member of the council, and in the third session, the representatives from Detroit, were Chabert, Jonathan Schieffelin and George McDougall. There must have been some explanation for the appearance of Schieffelin in the assembly, for he had refused to become a citizen of the United States in 1796, and I have been unable to find any declaration of intentions to become a citizen after that date.

In dividing the northwest territory into two parts in 1800, the eastern half of Michigan still remained in the same territory with the present state of Ohio, while the western portion was included in the new Indiana territory of which William Henry Harrison was governor.

An act for the incorporation of the town of Detroit was passed by the assembly Jan. 18, 1802. The village was composed of parts of the townships of Detroit and Hamtramck, bounded in front by the river, on the east by the line between the farms of John Askin (Brush), and Antoine Beaubien; on the west by the line between the farm of the heirs of William Macomb (Cass), and Pierre Chesne (Jones), and extending back from the river, two miles. The town should be governed by five trustees, a secretary and an assessor, a collector and a town marshal. The trustees should be a body politic by the name of "the board of trustees of the town of Detroit."

The inhabitants who were freeholders or householders paying an annual



rent of forty dollars, and such other persons residing in the said city as should be admitted to the freedom of the corporation by a majority of the electors at their annual meeting, were required to assemble at a place within the town to be designated by the village trustees, on the first Monday in May, in each year, and there elect the village officers who were to hold office for one year.

The board of trustees had power to pass all needful rules and regulations for the government of the town, such rules to be in force, until they "shall be disapproved of and rejected by a majority of the voters present" at the next annual election. This was an early attempt at the referendum.

The first set of officers appointed by the legislature, and named in this act, were John Askin, Sr., John Dodemead, James Henry, Charles Francois Girardin and Joseph Campau, trustees; Peter Audrain, secretary; Robert Abbott, assessor; Jacob Clemens, collector, and Elias Wallen, marshal. This act took effect February 1, 1802.

Why Askin was named as one of the original trustees is hard to say. He was not an American citizen and never intended to become one. The probable explanation is, that Mr. Elijah Brush, then one of the leading lawyers in Detroit, procured the insertion of his name in the charter from motives of friendship. At this time, Brush was with the assembly though not a member of it. Extracts from a few of Askin's letters at this time, may add to the probability of the explanation above given. On December 30, 1801, he wrote to Hugh Heward: "I move to the other side (of the Detroit river) in the spring, having got a settled farm there, opposite Hog island." On the next day, he wrote to Robert Nichol, "Relative to the marriage of Alice, it has not yet taken place, though it probably may. The gentleman is now on business in Cincinnati." To Alexander Henry, he wrote on February 17, 1802: "My daughter Alice was married this evening to an American named Brush," and ten days later, he sent another letter to Mr. Henry (who was the noted trav-

eler): "My only daughter, except one that was unmarried, has taken a husband unto herself a few days ago. He promises fair as a good character, and reckoned a good lawyer, which is not a bad profession in this quarter." As indicated in this letter, he removed from Detroit in the spring of 1802, and never assumed the office of trustee. His son-in-law, Elijah Brush, purchased the Askin farm in Detroit, and a large portion of that farm on which Askin lived until the time of his removal to Strabane, is still held by the descendants of Askin and Brush.

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The act permitting Ohio to become a state, was passed by congress in 1802, but did not become fully effective till the following year. The same act provided that the eastern half of the present state of Michigan, which up to that time had formed a portion of the Ohio territory should be annexed to, and form a portion of the territory of Indiana, and William Henry Harrison, afterwards president of the United States, became the governor.

Elias Wallen is one of the least known of the early officials of Wayne county. The following paper was issued by him as sheriff, a few days after Detroit became a part of Indiana territory.

Territory of the United States

North West of the Ohio.

Wayne

County.

Whereas the Gaol in said County of Wayne is entirely insufficient for the safe keeping for the prisoners therein confined, and whereas by law I am intitled to the aid of the *posse Comitatus* to guard said prison whenever I may judge it necessary to call for the same.

These are therefore to notify you the forthwith you cause to be placed around said prison a sufficient number of militia in said County of Wayne to guard the same and to prevent any escape therefrom until the same shall be rebuilt and Rendered safe & secure from the possibility of Escape.

Given under my hand and seal at my Office in Detroit in said County

of Wayne, this 10th of May, Anno Domini, 1802.

E. WALLÉN, *Sh'ff*,  
Wayne County.

To Joncaire de Chabert, Col. Commandant of the Militia in said County of Wayne.

CREATING WAYNE COUNTY, BY HARRISON.

By William Henry Harrison, Esq.,  
Governor and Commander-in-Chief of  
INDIANA TERRITORY.

#### A PROCLAMATION.

Whereas, by an act of Congress passed the 30th day of April, 1802, entitled, "An act to enable the people of the Eastern Division of the Territory North West of the River Ohio to form a constitution and State Government, and for the admission of such state into the Union on an equal footing with the original states, and for other purposes."

It is declared that from and after the formation of the said state, all that part of the Northwestern territory which is not included within the boundaries prescribed for the said state shall be attached to, and make part of the Indiana Territory.

And whereas the inhabitants of the said eastern division have formed themselves into an independent state by the name of the State of Ohio.

It has become necessary for the convenience of the citizens in the newly acquired territory and the due administration of justice, that a new county should be laid off and alterations made in the boundaries of those formerly established.

Wherefore, I, William Henry Harrison, Governor of the Indiana Territory, by the authority vested in me by the ordinance for the government of the territory, do ordain and declare:

That a county shall be formed in the north eastern part of the territory, to be known and designated by the name and style of the County of Wayne:

And the boundaries of the said county, shall be as follows, to-wit: Beginning at a point where an east and west line passing through the southerly extreme of Lake Michigan would intersect a north and south line passing through the most westerly extreme of

the said lake, and thence north along the last mentioned line to the territorial boundary of the United States, thence along the said boundary line to a point where an east and west line passing through the southerly extreme of Lake Michigan would intersect the same, thence west along the last mentioned line to the place of beginning.

All the aforesaid lands lying within the above described lines and boundaries are hereby erected into the County of Wayne.

And the inhabitants of the said County of Wtyné, shall have and enjoy (from the date hereof) all the rights, privileges and immunities whatsoever which to a county and the inhabitants thereof in anywise appertain. And each and every person within the bounds of the said County of Wayne, who held commissions, civil or military, under the government of the Northwestern territory at the time of the formation of the State of Ohio, shall still continue to exercise and enjoy their respective offices. And the justices of the Court of Common Pleas, of the General Quarter sessions of the peace, and of the Orphans Court, shall (until otherwise directed) continue to hold their respective courts at the place and times at which they were accustomed to be held under the government of the northwestern territory.

And whereas I have not received sufficient information respecting the settlements below the Great Miami to enable me to form in that quarter a county establishment, for the present that tract of country included between a north line drawn from the mouth of the Big Miami River; the Ohio, and the Indian boundary line, running from a point opposite to the mouth of the Kentucky river, shall be attached to and form part of the county of Clark. And such persons within the said bounds as may have held civil or military commissions under the government of the North Western Territory at the time when the said described tract was attached to this territory, are hereby appointed to the same offices respectively in the County of Clark which they held under the government of the northwestern territory.

Done at St. Vincennes, the fourteenth day of January, in the year of our Lord one thousand eight hundred and three, and of the Independence of the United States, the twenty-seventh.

By the Governor,

JNO. GIBSON, *Sec'y.*

#### THE TERRITORY OF MICHIGAN.

The territory of Michigan was organized in 1805, and the judicial and legislative powers were vested in a set of officials similar to the officers who managed the affairs of the northwest territory as first organized under the ordinance of 1787. The officials consisted of a governor, secretary and three judges. In the absence of the governor, the secretary occupied his position *pro tem.*

The first selected officials for the new territory, were William Hull, governor; Peter Audrain, secretary, and Augustus Brevoort Woodward, Frederick Bates and John Griffin, judges.

The town of Detroit was fire swept on the eleventh day of June, 1805, and it was not until the next day that the newly appointed Judge Woodward and the governor appeared, to witness a scene of desolation, for every dwelling or building in the place, save two, was destroyed.

Judge Bates was already on hand, as he was a resident of Detroit before the formation of the territory, and Judge Griffin, who was a judge in Indiana Territory, did not arrive in Detroit for same days after the fire.

The first act was passed by the legislative body is dated July 9, 1805, and provided for a territorial seal.

By proclamation of the governor of July 3, 1805, the territory was divided into four districts, called Detroit, Erie, Huron and Michillimackinac. The district of Detroit was bounded in front by the Detroit river and on the remaining sides by a line commencing at the Detroit river five miles above the center of the citadel in the village of Detroit, and extending westerly from that point to the line of Indian title as established by treaty, thence south on that line 10 miles, and thence due east to the Detroit river. The territory south of this district, was called Erie, and that to the

north, was called Huron and extended to Saginaw Bay. The territory north of Huron was called the district of Michillimackinac.

These were the judicial districts of Michigan.

The supreme court consisted of the three judges appointed by the president.

A district court should be held in each of the above named districts, to be presided over by one of the judges of the supreme court.

Justices of the peace were appointed to hear causes where the amount involved did not exceed \$20.

Marriages could be performed by justices of the peace and ministers of the gospel, and marriage certificates were required to be filed with the clerk of the court of the district.

The clerks appointed for the district courts were as follows: Peter Audrain, for the supreme court, and for the district court of the district of Huron and Detroit. These courts were held in Detroit.

George McDougall for the district of Erie. Court held at Frenchtown (Monroe).

Samuel Abbott for the district of Michillimackinac. Court held at Mackinac.

Samuel Abbott, David Duncan and Josiah Dunham, were appointed justices of the peace at Mackinac.

John Anderson, Francois Navarre, Israel Ruland, Francois Lasselle, and Hubert Lacroix were appointed to the same office, for the district of Erie, and Robert Abbott, James Henry, James Abbott, James May, William McDowell Scott and Matthew Ernest received a similar appointment for Detroit.

Elisha Avery was first appointed marshal of the territory, but he declined the appointment, and it was given to James May.

There was no settlement of importance in the district of Huron, and consequently it was always attached to Detroit for judicial purposes.

Without going into any of the details of the future of Detroit under the system of government called the "governor and judges' rule," it will be sufficient to say that there were bickerings,

quarrels and contentions as long as the system lasted. Hull and Woodward could never agree, and Woodward domineered over everyone with whom he came in contact, unless it may have been Gov. Lewis Cass and Judge James Witherell. Volumes might be filled with the anecdotes relative to those early rulers and the troubles they got themselves and their neighbors into, and still the stories would be but half told.

The system continued in force until 1824, and Judge Woodward remained at his post during the entire time. The supreme court was first convened at a court room arranged for that purpose in the house of Judge James May, July 29, 1805.

At the first session, there were no causes for trial, and court adjourned after appointing Peter Audrain clerk. On the following day, Solomon Sibley and Elijah Brush were admitted to practice at the bar. The only judges present at these two sessions were Woodward and Bates.

Court was not again convened until September 16, 1805. In the meantime, a good deal of building had been done in the burned district of the village, and the house of John Dode-mead had been erected upon the same lot as that before occupied by him, at the corner of Shelby street and Jefferson avenue, and here Court was now opened by the marshal in the following words: "Attention! the supreme court of the Territory of Michigan is now sitting. Silence is commanded on pain of imprisonment." A grand jury was called, and three jurors, Jacob Visgar, Antoine Beaubien and Joseph Campau, who failed to answer the summons were each fined \$1.00.

The first case called was an action against certain goods supposed to have been smuggled into the territory in order to avoid payment of duty. The owners of the goods were Isaac Bissell, Jr., and Henry Fitch. The attorney for the United States in this action was Solomon Sibley, and Elijah Brush represented the defendants.

The first judgment was obtained the same day, September 16, 1805, in favor of George Meldrum and William

Park against Adam Brown, for \$400.40 $\frac{3}{4}$ .

George Hoffman was the third attorney admitted to practice, and Abraham Fuller Hull was the fourth.

The marshal's name, as he signed it in later years, was William McDowell Scott. His wife was Nancy Meldrum, daughter of George Meldrum, a prominent merchant. While a young man he signed his name William Scott, as appears by the following protest. This paper again called the attention of the authorities to the insufficiency of the public lock-up.

To the honourable the Court of the District of

Huron & Detroit —

Territory of Michigan.

The Marshal of the Territory comes into open Court, and solemnly protests and enters his protest against the Common Gaol of the District of Huron and Detroit as utterly insufficient to retain prisoners in safe keeping, and that he cannot be responsible for Prisoners delivered into his Custody until the District furnish a good & sufficient common gaol for the same, & that the gaol at present is a public nuisance & ought to be removed out of the Highway.

WM. SCOTT,

Detroit 5 May 1807— Marshal

A very few of the matters contained in the records of this early territorial court have ever been published, but this series of articles has already greatly exceeded the number and amount originally contemplated. It is possible that the patience of the reader has become exhausted also, and with but one more interesting item, the series will close.

There is probably no member of the Detroit bar, and few among the older citizens of Detroit who have not heard of the Crane and Reeder controversy that involved the title to a large and valuable tract of land on the Detroit river, near the fort, officially designated as "private claim 39." The history of this farm, and of the dispute that grew out of the presumably defective title, are as follows:



Sometime prior to the year 1800 John Askin owned the land. He was an extensive trader and merchant in the village and was largely indebted to eastern houses of whom he purchased goods. Among his other creditors, were Isaac Todd, a wealthy Irish gentleman temporarily living in Montreal, and James Magill, founder of James Magill university, also of Montreal. In the financial depression that occurred in 1800, Askin was afraid he would fail in business, and in order to secure his creditors he turned over this farm to Todd and Magill. They had perfect confidence—well placed too—in Askin's honesty and ability and gave him a power of attorney authorizing him to sell this land and a number of other parcels in which they were interested.

In the spring of 1801, there was a baker in Detroit named John Harvey. It was subsequently claimed that Harvey came to Detroit before the year 1797, but it does not matter to us when he came. He was certainly here early in 1801, and kept a bake shop near the southeast corner of Shelby street and Jefferson avenue, or Ste. Anne and Ste. Honore streets, as located in the village as it then existed. It was in his bake shop that the fire started that destroyed the entire village in 1805.

In the testimony produced in the case of Crane vs. Reeder, it was shown that Harvey was born in Birmingham, England, about May 17, 1751. He married Mary Penrice in 1782, and they had three daughters, Mary Penrice Harvey, Ann Reynolds Harvey and Maria Yorke Harvey, all of whom lived to maturity, and a son, John Harvey, who died in infancy. Mary was christened Oct. 10, 1783; Ann was christened in January, 1786, and Maria was believed to have been born in 1792. The wife, Mary Penrice died in 1809. The daughter, Mary Penrice, married Benjamin Pierce, and died in 1852. Ann Reynolds married William Hart, July 14, 1805, and was buried August 18, 1863. Maria Yorke Harvey left England, October 23, 1822, to join her father at Jeffersonville, Indiana, and there

resided with him till his death, December 5, 1825. When she came to America on the ship London, December 13, 1822, she gave her age as 26 years, from which it would follow that she was born about 1796, and probably her father left England not far from that date.

After the fire of 1805, that destroyed Detroit, an act of congress was passed, giving the governor and judges permission to lay out a new village plat and authorizing them to give each resident of the old village a lot in the new one. Under this law Harvey obtained three lots; one as a donation and two others as purchaser of the rights of Mrs. Thibault and Mrs. Provencal. There was some evidence produced at one of the trials to show that Harvey was living with a woman who claimed to be, but was not, his wife. It is certain that on December 19, 1808, a donation lot was granted to "Sally Harvey, wife of John Harvey." This woman's name was Sally Wilson, and she was generally considered to be the wife of Harvey, and was such by common law rights, for she lived with him until her death in the year 1822.

One of the witnesses in Detroit in the Crane vs. Reeder trial, James Thebaud (or Thibault), who lived at L'Anse Creuse (or as our learned brother-in-law, Henry Plass, who as circuit court commissioner, took the testimony, has it, he lived at "Long Screws") stated that Harvey's wife was "Tall Kitty" and that she was part Indian and part French. That because of her living with Harvey, the priest would not admit her to communion. It is certain that her name was Sally, for the records and conveyances from her, all give that name.

Harvey and his wife Sally sold part of their property in Detroit in 1809, and left for New York for the purpose of going to England. This was probably after the death of the rightful Mrs. Harvey in England, and Sally would have been received by the Harvey family as the legal successor to the name of wife. It is said that



when the couple reached the city of New York Mrs. Harvey refused to cross the ocean, and after a visit of a few days in that city they together returned westward, but not to Detroit. They took up a residence in Jeffersonville, Ind., and lived there the remainder of their lives. Harvey sold the rest of his lands in the village of Detroit to John R. Williams, in 1816, but did not dispose of his farm.

He appointed Benjamin Stead, his local agent and the farm was looked after, rented and taxes kept paid by the agent. Sally Harvey died in 1822, and on April 25, 1823, John Harvey made a deed of this farm to his daughter, Maria Yorke Harvey, who had come from England to live with him in December previous. This deed was not witnessed, and was not admitted as evidence in the subsequent suits in Michigan. John Harvey died December 5, 1825, leaving no other children than those born in England, all of whom were at that time in England excepting the one daughter, Maria.

Maria Yorke Harvey married Edwin Reeder, May 18, 1825. She died after April 12, 1828, leaving no children.

Edwin Reeder was appointed administrator of the estate of John Harvey, July 13, 1826. Shortly after the death of his wife, Reeder came to the farm near Detroit, erected a house, and lived there the remainder of his life. He left a will, which was probated in Wayne County, by which he devised the larger portion of this farm to relatives, giving one-tenth to the Unitarian church of Detroit. As this land was afterwards claimed by the state to have escheated for want of heirs capable of inheriting real estate it will be well to see what the laws relating to real estate were. It was provided, as we have seen, that all persons who were in Detroit in 1794, and who remained here one year after Jay's treaty became effective in 1796, were naturalized by reason of that treaty. It is now known that Harvey came to this country before

1795, and became naturalized by the provisions of that treaty.

It will not be necessary here to enter into all the laws and repealing acts that affected property in the years between 1796 and 1828. A naturalization law was passed in 1802 by congress. Two laws were passed in 1805, by the Governor and Judges of Michigan territory, permitting aliens to hold, buy, sell and inherit real estate, but both laws were repealed before 1821. The entire laws of the parliament of Great Britain were repealed, so far as concerned Michigan, in 1810.

When the suit of Crane vs. Reeder came to be tried, it was claimed that the act repealing the alien law, which repealing act was passed in 1821, was enacted by mistake, and that the governor and judges intended to re-enact the original law at once. There is some authority to be found in the Detroit papers of 1828, to bear out this supposition.

On March 31, 1827, the alien law was again enacted.

Having thus hastily passed over the land laws of that period, let us return to more modern times. Walter Crane gave his version with his connection with this land somewhat as follows: He was an army paymaster stationed at Louisville, which is across the Ohio river from Jeffersonville. One day a man whom he had befriended told him that John Harvey formerly lived in Jeffersonville, and that upon his death the property owned by him there had escheated to the state because he was not a citizen. He also told Crane that there was land in Detroit in the same situation. When Crane returned to Detroit he commenced the investigation of the title and came to the conclusion that Harvey was an alien, and that his property had escheated to the state. He applied to the state board of escheats and after some delay obtained a deed from the state for \$5,000. There were other circumstances connected with the purchase of the land of no great concern, except that they

are interesting. One of these stories is as follows:

Just before the time that the escheat was discovered the government was seeking to purchase a site for Fort Wayne and among the parcels of land offered for that purpose was this land. The official examiner for the government rejected the land because of the defective title, but he admitted someone into his confidence and that party made an application to the state board of escheats for a deed of the land. He was out-bid by Crane. At the same time another party or committee of citizens of Detroit composed of Moses W. Field, Henry P. Baldwin and others, attempted to purchase the rights of the state and agreed that if they were successful in obtaining the land they would convey it to Detroit for a public park. They also were out-bid by Crane. When Crane had obtained the deed from the state a cry of fraud was raised that the state board of escheats had not conveyed the land to the proper applicant, and an investigation was had but nothing ever resulted from it. Crane having obtained the deed from the state set about recovering possession of the land by commencing suits in ejectment against the parties who were in possession under Reeder. He sought to show that Harvey was an alien and had never become naturalized. In order to make this showing and produce the proper records, Crane visited England three times in 1869, 1873 and 1876. He inspected every parish record, over 800 in number, in Worchestershire, and also a number in Warwickshire and other places. He examined all the custom house records in New York to ascertain when Harvey and his daughter came to America. In order to do this he inspected more than 10,000 large volumes, and closely examined some 800 that were selected from the larger number. He was not contented with showing negatively that Harvey was a British citizen, but he desired to show affirmatively that he could not have been naturalized.

In the great law suits that grew

out of this contest, and there were more than a score of them, nearly all the prominent attorneys in the city took part. Messrs. S. T. Douglas, Sidney D. Miller, William P. Wells, George E. Hand and Herbert Bowen, at one time or another represented Mr. Crane, while D. B. and H. M. Duffield, George V. N. Lothrop, Alexander D. Frazer, Henry M. Cheever and Theodore Romeyn represented the Reeder. The legal battle began in 1868, and was continued in the circuit and supreme courts of Michigan and in the United States courts for 10 years.

In the lower state court the cases were tried before a jury, and were uniformly decided in Reeder's favor, while in every instance on an appeal to the supreme court the decisions of the lower court were reversed. In the meantime all of the heirs of Harvey appeared in Detroit, either in person or by attorney and entered into the litigation.

The attorneys and the parties on both sides were tired of their long fight, their patience and their means were alike exhausted and they agreed to divide the property between them and cease their litigation.

In the settlement, the entire property was conveyed to Crane, and he reconveyed to the Reeder interests the east 354 feet in width of the farm, nearly one-third.

The judges before whom these cases were tried, Jared Patchin, of the circuit court, and Judges Cooley, Campbell, Christianity and Graves, of the supreme court, have all passed from among us. Nearly all of the lawyers connected with the cases have gone also. Herbert Bowen and General Henry M. Duffield are all that are left.

The first case that reached the supreme court is reported in volume 21, page 70, Michigan reports. The decision of the judge is based upon the supposition, first, that John Harvey was an alien and his children could not inherit his property; second, if he was a citizen that the statute of 1827 did not take effect till Jan. 1, 1828, which was several months after Mrs.

Reeder died, and consequently she could not inherit from her father, for there was no law in force permitting aliens to inherit until the law of 1827 became operative. At this first trial all of the testimony that was subsequently produced was not put in evidence, but from later developments, it appears that the law of 1827 became operative on the day of its passage, March 31, 1827, and that Mrs. Reeder did not die until nearly a year afterwards, after March 12, 1828. In all other trials in the case it was contended that if Harvey ever became a citizen it was by virtue of the treaty of 1794. Despairing of ever being able to show a different citizenship or any naturalization whatever, the compromise above mentioned was arrived at and the contest closed.

In searching through these old papers and records that have been the foundation for this series of articles, I have happened upon some documents of exceeding interest and importance in the Crane and Reeder controversy, being nothing less than the letters of naturalization of John Harvey.

The first of these papers reads as follows:

"At a session of the supreme court of Michigan began and holden on Monday, the twenty-first day of September, one thousand eight hundred and seven, at twelve of the clock noon, at the council house provided by the marshal for that purpose at Detroit, the seat of the government of Michigan, was, present Augustus Brevoort Woodward, chief justice of Michigan. John Harvey, of the city and district of Detroit, applied to be made a citizen of the United States; the court ordered said application to be docketed, and postponed the same for further consideration."

And on Thursday, Sept. 24, follow-

ing, is an order as follows:

"In the case of the application of John Harvey to be made a citizen of the United States of America, the applicant having satisfied the court by four witnesses, of the time of his residence in the United States, and of his moral character and attachment to the principles of the constitution of the United States of America, and of his being disposed to the good order and happiness of the same, he was admitted to take the oath of naturalization and the oath to support the constitution of the United States, and he was sworn accordingly in open court."

If these records had been known to the parties before these cases were tried, the result might have been different.

In addition to this record evidence there has recently come into my possession a small book containing a journal and account, in the handwriting of John Harvey, from this journal and the other papers that accompanied it, it appears that Harvey was in the city of New York as early as January, 1794, where he was employed as a pack peddler, going about the city selling his wares. He became indebted to the storekeepers who were furnishing him goods to sell, and being unable to meet his obligations departed for the west without leaving his post office address. It was some years before his whereabouts were known to his New York creditors and they then sent this journal, which also contained their account against Harvey, to their attorney in Detroit as a basis of a suit to recover the amount due them.

The various evidences now brought to light show conclusively that the Harvey land never escheated to the state.

C. M. BURTON.

[THE END]



# From the Bookshelf.

by Bookworm.

## THE GIRL FROM HIS TOWN.....

By Marie Van Vorst. Author of "In Ambush." Illustrated by F. Graham Coates.

The idea of reversing the usual international complication, which is the distinguishing feature of this story, is an admirable one. The young man here is the innocent and unprotected prize who with his ten million pounds is in danger of becoming the victim of the needy aristocrats of a civilization more sophisticated than that in Blairtown, Montana. Like the heroines we have read about, Dan Blair is handsome, assured, good, daring, simple, nobody's fool, however, with right ideals, an inexhaustible supply of slang, and so unlike the people with whom he associates as to seem original. In reversing the usual situation it becomes necessary to supply the place of the plain lover from home who comes over to carry off the heroine from under the noses of the effete nobility, about the time she has grown worldly-wise and weary. The heroine here is a girl "from home," whom Danny has known and admired from afar in his native town, where she used, when he was a small boy, to sell him soda water. Her fine voice and her great charm have won her a place on the stage and made her the rage in London. So she has grown worldly-wise and weary enough to appreciate all the hero's freshness and to realize his dangers.

"The Girl From His Town," therefore, is as flattering to our American pride as "The Man From Home." It is a striking and heartening lesson in patriotism. But more than that, more than anything else, it is an ardent and captivating love story, heightened and made unusually effective by many of the elements of a good play. Freshness of situation, considerable humor, some pathos, delightful sentiment, pictures of life in London about the theater, and a happy ending after a good scare—these are a strong combination. "The Girl From His Town" has all the marks of great popular appeal.—The Bobbs-Merrill Co.

## "Guilty."

By John W. Arcander.  
Cochrane Publishing Co., Tribune B'd'g,  
New York.

This is a story of a great murder trial, efficiently told by an able lawyer. A woman, a Norwegian, young and very beautiful, marries in the West an old farmer, and goes to live in the country with him. The old farmer

dies suddenly, and his wife is accused of having murdered him. She sends to a distant city asking for the aid of a celebrated lawyer. A powerful picture is drawn of the receipt of her telegram by the shrewd old attorney. After studying it he makes up his mind as to her case—her guilt or innocence, and what sort of a woman she is. In fact, he has decided that she is guilty.

The trial is given as though copied from the court stenographer's minutes. The theory is that the victim was poisoned, and much interesting expert medical testimony is introduced. The defense is finally able to show that the poison found in the body was introduced after death. Next the point is raised, Who put the poison there? The capable lawyer for the defense has had his suspicions, and kept his eyes open. At the critical moment he calls out the name of the suspected man, who is in the court-room. Getting him into the witness chair, he literally forces a confession from him—but the denouement must not be told here. It is highly dramatic and there is not a dull page in the book.

## Something About Singlefoot.

By John Hicks, LL.D.,  
Author of "The Man from Oshkosh."  
Cochrane Publishing Co., Tribune B'd'g,  
New York.

The psychological influence of a girl's face carried in the imagination of a young man through a course of years, even if the young woman is absolutely unknown, is set forth with all its consequences in this Western novel.

The hero has never met her, but falls in love with her abstract qualities, and she becomes the object of his adoration, the subject of his thoughts by day and of his dreams by night. When he goes to the Western country, however, his warm and impressionable nature is set on fire by the charms of another damsel of quite a different type, and the usual consequences follow. After a tragic event, which forms one of the climaxes of the story, he finds himself a widower ready to blow out his brains in the awful mystery of his bereavement. Suddenly, while his hand is ready for its suicidal work, he catches a glimpse of the other face that he had worshipped in his youth, conveyed to him by means of a photograph from a correspondent. He follows the impulse so awakened and is led into a succession of fatuous and ridiculous movements, which culminate in another tragedy.

In the development of the story, the reader is given a realistic glimpse of life in the West.











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